Appendix to the Journal of the Assembly

LEGISLATURE OF THE STATE OF CALIFORNIA
1958 REGULAR SESSION

Convened February 3, and Adjourned March 30, 1958

REPORTS

HON. L. H. LINCOLN
Speaker

HON. CHARLES J. CONRAD
Speaker pro Tempore

HON. RICHARD H. McCOLLISTER
Majority Floor Leader

HON. WILLIAM A. MUNNELL
Minority Floor Leader

ARTHUR A. OHNIMUS
Chief Clerk of the Assembly

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Volume 15, Number 20—All Insurance Matters Excepting Social Insurance Subjects

Volume 15, Number 21—All Social Insurance Subjects

ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959
VOLUME 10 NUMBER 11

PROGRESS REPORT BY THE

SUBCOMMITTEE ON ISSUANCE OF DEGREES

OF THE

ASSEMBLY INTERIM COMMITTEE ON EDUCATION

MEMBERS OF THE SUBCOMMITTEE

SHERIDAN N. HEGLAND, *Chairman*
DOROTHY M. DONAHOE
DONALD D. DOYLE
JOSEPH C. SHELL
GORDON H. WINTON, JR.

December, 1957

JAMES C. MARSHALL, *Consultant*
BLANCHE V. HANSEN, *Secretary*

Published by the
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OF THE STATE OF CALIFORNIA

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LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, DECEMBER 16, 1957

HON. L. H. LINCOLN
Speaker of the Assembly; and
MEMBERS OF THE ASSEMBLY
Assembly Chamber, Sacramento, California

GENTLEMEN: Pursuant to House Resolutions 269 and 285, adopted June 8, 1957, the Assembly Interim Committee on Education herewith submits its progress report on the issuance of degrees.

Respectfully submitted,

DONALD D. DOYLE, *Chairman*

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, DECEMBER 16, 1957

HON. DONALD D. DOYLE
Chairman, Assembly Interim Committee on Education
Assembly Chamber, Sacramento, California

DEAR MR. DOYLE: Pursuant to the general authority of House Resolutions 269 and 285, adopted June 8, 1957, under which you appointed this subcommittee, the Subcommittee on the Issuance of Degrees held hearings in Los Angeles on October 21, 22 and 23, 1957. This report is a progress report with legislative recommendations of the subcommittee based on those hearings.

Respectfully submitted,

SHERIDAN N. HEGLAND
Chairman of the Subcommittee
DONALD D. DOYLE
DOROTHY M. DONAHOE
GORDON H. WINTON, JR.
JOSEPH C. SHELL

SCOPE OF REPORT

The Subcommittee on Issuance of Degrees, created under the authority of House Resolution 269 of the 1957 Regular Session of the Legislature, held hearings in Los Angeles, October 21, 22, and 23, 1957. Testimony heard at the hearings, and background material gathered by the subcommittee staff with the help of the Attorney General and other law enforcement agencies, have formed the basis of this report on "diploma mills" and allied subjects.

Records show that as far back as 1939, when the present education incorporation laws were passed, bogus operators were in existence. Since then, and particularly since 1945 when veteran education became a big business, the problem has increased.

No attempt is made in this report to place blame on any public agency for the existence of these schools, the people who have purchased and used degrees, nor those who have been affected by their use.

The laws governing educational institutions are loosely written so that academic freedom will not be impaired. Therefore, in order to establish a clear need for legislation, the committee has been conducting its investigations primarily in the healing arts and the traditional academic fields. The committee did not attempt to delve into such educational operations as radio, television, or aircraft schools.

This report, then, covers the following categories of activity as revealed in the testimony of witnesses:

1. People who ran the "diploma mill," either selling degrees in the fields of healing arts, religion, or traditional academic fields, or who sold degrees at a high price for substandard instruction.
2. People who purchased the degrees and the various ways in which they were used.
3. The effect that these degrees has had on the general public, particularly in the field of the healing arts.
4. Testimony of recognized leaders in education, religion, and educational organizations.

FINDINGS

1. The subcommittee found that there are in California, particularly in the Los Angeles area, at least 50 "diploma mills," which sell diplomas, certificates, or degrees, or which have substandard requirements for graduation in the fields of the healing arts, religion, and traditional academic studies.

2. The degrees bear such names as bachelor of science, bachelor of arts, master's and doctor's degrees of many kinds, thus masquerading as valid degrees from recognized institutions.

3. The degrees are being used most often by practitioners with scanty education themselves to treat people with emotional or personal problems or with their health.

4. Many people accumulate many "doctor's" degrees in a short time. Time considered too short for adequate academic preparation.

5. Ordination certificates have been sold that enable the purchaser to perform marriages, counsel, and to collect money for nonexistent churches.

6. There are many near-legitimate schools in the traditional academic field, which hold few classes, carry on correspondence courses, or simply hurry the educational process by selling a degree at a high price after a student has taken some of the prescribed courses. Other schools have sold bachelor's degrees through the mail, after a student has completed and sent in an open-book examination.

7. In most cases, the schools issuing the degree were bona fide California corporations, authorized by the Secretary of State, under sections of the Education Code.

8. There may be as many as 100 of the one-man fly-by-night kind of operations in California, which may work only a few days in one place in one town. They are accurately described as "a unique type of con man. Like other racketeers, his business is based on fraud, hypocrisy and huge profits."

9. These "phony" degrees are being disseminated to other states and foreign countries.

10. It is only a misdemeanor to practice medicine in California without a license, which tends to lead to lack of prosecution, and does not deter that kind of person from practicing medicine again.

11. The Seal of the State of California is being used on these degrees, which implies "state approval."

RECOMMENDATIONS

1. The committee feels that additional hearings should be held in the San Francisco Bay area as well as in the Los Angeles area in order to determine the prevalence of the "diploma mill" in California, to determine whether the hearings in Los Angeles have done anything to lessen this type of operation, and to gather opinions on proposed legislation.

2. Legislation should be enacted to make it a felony to sell any degree, diploma, or certificate, placing the penalties for this public danger on the same footing as sale of medical degrees which is a felony.

3. Legislation should be enacted to prohibit the reproduction of the Seal of California, since the authenticity of degrees is given "state approval" by the reproduction of the seal.

4. Legislation should be enacted to make it a felony to practice medicine in California without a recognized medical license, since it was shown at the hearings that, while the sale of a medical degree is a felony, the actual practice of medicine without a license is only a misdemeanor.

5. The State Department of Education should be instructed to add investigative personnel to their staff to find the "diploma mill" operators.

6. Legislation should be enacted to prevent children from being used as victims or subjects by practitioners or demonstrators of hypnosis.

7. Legislation should control the issuance of degrees in a way to preserve educational freedom but to control unscrupulous operators of "diploma mills" in higher education.

8. Training schools for nurses should be controlled so that persons attending them will not be taking worthless courses.

9. State and local agencies are urged to tighten licensing procedures so that holders of "phony" degrees and certificates cannot practice in California.

PROPOSED LEGISLATION

An act to amend Sections 580, 581 and 582 of the Business and Professions Code, relating to the unlawful purchase, sale or barter of degrees and certificates.

The people of the State of California do enact as follows:

SECTION 1. Section 580 of the Business and Professions Code is amended to read:

580. No person, company or association shall sell or barter or offer to sell or barter any medical degree, *certificate or transcript;* or osteopathic degree, *certificate or transcript;* or chiropractic degree, *certificate or transcript;* or drugless practitioner degree, *certificate or transcript;* or naturopathic degree, *certificate or transcript; or chiropody degree, certificate or transcript; or midwifery degree, certificate or transcript; or psychology degree, certificate or transcript,* or any *other* degree, certificate or transcript, made ~~or purporting to be made pursuant to any laws regulating the licensing and registration or issuing of a certificate to physicians and surgeons, drugless practitioners, chiropodists, midwives, osteopathic physicians and surgeons or drugless practitioners, naturopaths, chiropractors or persons lawfully engaged~~ in any other system or mode of treating the sick or afflicted.

SEC. 2. Section 581 of the Business and Professions Code is amended to read:

581. No person, company or association shall purchase, ~~or~~ procure, *or obtain* by barter or by any *other* unlawful means or method, any *degree,* diploma, certificate or transcript *evidencing the successful completion of a course of study in medicine, surgery, osteopathy, naturopathy, drugless healing, chiropody, midwifery, psychology* ~~with intent that it shall be used as evidence of the holder's qualifications to practice as a physician and surgeon, osteopathic physician and surgeon, a naturopath, a drugless practitioner, a chiropodist, or a midwife~~ or any other system or mode of treating the sick or afflicted; ~~as provided in the State Medical Practice Act or in Chapter 5 of Division II of this code, relating to the practice of medicine, or in any fraud of the law regulating this practice or~~ *no person, company or association* shall with fraudulent intent, alter in a material regard, any such *degree,* diploma, certificate, or transcript.

SEC. 3. Section 582 of the Business and Professions Code is amended to read:

582. No person, company or association shall use or attempt to use any *degree,* diploma, certificate, or transcript which has been purchased, fraudulently issued, illegally obtained, counterfeited or materially altered, either as a certificate or as to character or color of certificate, to practice as a physician and surgeon, naturopath, drugless practitioner, chiropodist or midwife, osteopathic physician and surgeon or a drugless practitioner, chiropractor, *or a psychologist* or to practice any other system or mode of treating the sick or afflicted. ~~provided in the State Medical Practice Act or in Chapter 5 of Division II of this code, relating to the practice of medicine.~~

An act to amend Section 2141 of the Business and Professions Code, relating to the practice of medicine.

The people of the State of California do enact as follows:

SECTION 1. Section 2141 of the Business and Professions Code is amended to read:

2141. Any person, who practices or attempts to practice, or who advertises or holds himself out as practicing, any system or mode of treating the sick or afflicted in this State, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition of any person, without having at the time of so doing a valid, unrevoked certificate as provided in this chapter, is guility of a ~~misdemeanor~~ *felony*.

An act to add Section 24216 to the Education Code, relating to the investigation and reporting of violations in connection with the issuance of academic certificates, diplomas and degrees.

The people of the State of California do enact as follows:

SECTION 1. Section 24216 is added to the Education Code, to read:

24216. In addition to the other duties assigned to the field representative of the Department of Education, they shall be assigned the duty of investigating any and all violations of this article and any other law relating to the sale or barter of diplomas or degrees. Report of violations shall be made to the Attorney General of this State for the institution of such proceedings as he may deem necessary.

An act to add Section 653l to the Penal Code, relating to the sale of academic degrees.

The people of the State of California do enact as follows:

SECTION 1. Section 653*l* is added to the Penal Code, to read:

653*l*. Every person who sells or barters or offers to sell or barter any academic degree of any kind or character whatsoever and every person who purchases, procures or obtains by barter or by any other unlawful means any such degree is guilty of a felony.

An act to add Section 273i to the Penal Code, relating to the practice of hypnotism.

The people of the State of California do enact as follows:

SECTION 1. Section 273i is added to the Penal Code, to read:

273i. Any person who practices or attempts to practice hypnotism on a minor, or who employs a minor as a subject for hypnotic practices is guilty of a misdemeanor.

This section is not intended to apply to any act of a licensed practitioner of the healing arts performed in the course of his practice.

An act to add Section 403 to the Government Code, relating to the use of the Great Seal of the State.

The people of the State of California do enact as follows:

SECTION 1. Section 403 is added to the Government Code, to read:

403. Every person who uses or allows to be used any reproduction or facsimile of the Great Seal of the State on any certificate, diploma or degree evidencing the completion of any course of instruction shall be guilty of a misdemeanor.

This section does not apply to the University of California or to any school, junior college or state college which is a part of the Public School System.

APPRECIATION

The Interim Committee on Education is grateful for the co-operation of so many law enforcement agencies with the Subcommittee on Issuance of Degrees. Their able work has materially aided the committee in its investigations, and was of great help in making the hearings at Los Angeles a success.

Special thanks go to the following:

Attorney General of the State of California
California State Board of Medical Examiners
California State Department of Employment
Chief of Police of the City of Los Angeles
Chief Postal Inspector in Los Angeles
Controller of the State of California
District Attorney of Los Angeles County
Sheriff of Los Angeles County

Thanks go also to the many police departments and sheriff's offices throughout California who worked wholeheartedly with the committee staff.

The committee is particularly grateful to Deputy Attorney General James D. Loebl, who handled much of the investigative work, and who contributed much to the dignified, yet revealing, conduct of the Los Angeles hearings by acting as committee counsel.

HOUSE RESOLUTION No. 269

House Resolution No. 269 directs the Assembly Interim Committee on Education to ascertain, study and analyze all facts relating to the methods of operation or need for regulation of schools and institutions which confer degrees or certificates in the healing arts fields, including particularly, but not limited to, those schools and institutions not now subject to state supervision, regulation or control, and to report its findings and recommendations for legislation to the Assembly.

HOUSE RESOLUTION No. 285

House Resolution No. 285 establishes the Assembly Standing Committee on Education of the 1957 Regular Session as the Assembly Interim Committee on Education.

The resolution authorizes and directs the committee to ascertain, study, and analyze all facts relating to the education of the citizens of this State, and all facts relating to the schools, colleges and universities, public or private, engaged therein, the education practices in the State, the State Department of Education, the State Board of Education, the Superintendent of Public Instruction, the State Curriculum Commission, and other state and local agencies or officers whose actions bear upon or affect education in this State.

BACKGROUND OF "DIPLOMA MILLS"

In this report of the activities surrounding the issuance of bogus degrees, certificates, and diplomas from so-called colleges and universities in California, it was thought that a brief history of this type of operation would give the reader a background into the problems involved.

For a number of years the Offices of the Attorney General and the California State Department of Education have received complaints and reports from citizens who lamented the existence of schools, colleges and universities which gave substandard instructions and who charged exorbitant prices. Records show that as far back as 1939, when the present education incorporation laws were passed, the bogus operators were in existence. Since that time, and especially since 1945 when veteran education became a big business, the so-called seller of degrees has been more prevalent.

There has sprung up in California the class of person who has been characterized by authorities as the "diploma mill" operator. He has been described as "a unique type of con man. Like other racketeers, his business is based on fraud, hypocrisy and huge profits." The investigations and hearings of this subcommittee have brought to light dozens of these pseudocolleges. The committee is convinced that as many as 100 of these operators are working in California. It has been discovered that most of them operate as one-man "fly-by-night" businesses.

Historically, the laws governing educational institutions are loosely written so that our academic freedoms in this State will not be suppressed or restricted. Those laws, however, that help legitimate colleges and universities, unfortunately also help the racketeer, who finds the loopholes and takes advantage of every opportunity to profit from our traditionally free system of colleges and universities.

No attempt has been made either during the investigations or hearings to delve into the sometimes questionable operations of certain radio, television, electronic, aircraft, and related educational schools and classes. The committee felt that by restricting their investigations to healing arts and the traditional academic fields, that enough information could be gathered to show that legislative changes are needed in the educational codes of this State.

Mail-order and correspondence schools, generally, were not included either in this investigation. Some of this type of so-called institution came under the scrutiny of the committee because of their relation to the general field under investigation.

On the following pages, as part of the background to this hearing we have included excerpts from the following:

1. Existing statutes.
2. The 1957 legislative bill (A. B. 1277) which was referred to this subcommittee for study.
3. Opening remarks of Subcommittee Chairman Sheridan N. Hegland, Assemblyman of La Mesa.

EXISTING STATUTES

No legislative study of the need for legislation in any given field would be complete without a consideration of the existing statutory provisions in that field and the reasons why the existing statutes do not adequately protect the public. This is true of this committee's study of the need for legislation to eliminate diploma mills.

Two basic statutes were involved, directly or indirectly, in almost every incident brought before the committee. No other applicable provisions have been found.

One of these provisions has been codified in Sections 580 to 582, inclusive, of the Business and Professions Code. Roughly, these sections make it unlawful to sell or barter or offer to sell or barter specified degrees, certificates of transcripts, or to purchase or fraudulently alter such a degree, certificate or transcript, or to use or attempt to use such documents to practice specified healing arts.

While these provisions are useful in a limited field, the fact that they are designed to operate only in area of the healing arts, and only to specified degrees and certificates in that area renders them practically valueless when the degrees involved are B.A.'s, M.A.'s, B.S.'s, M.S.'s, Ph.D.'s or similar degrees outside the healing arts field.

The other existing statute may be found in Article 1 (comprising Sections 24201 through 24215) of Chapter 2, Division 12 of the Education Code. Roughly, these provisions, with specified exceptions, limit the right to issue degrees of any kind or character to organizations incorporated pursuant to the chapter. In order to so incorporate, the organization must meet certain conditions, including the condition that the corporation own real or personal property to be used exclusively for education valued at at least $50,000.

Even assuming that these conditions, which are primarily financial in nature, provide assurance that the corporation is likely to furnish competent instruction and legitimate degrees, evidence brought before the committee and summarized later in this report clearly establishes that most of the diploma mills have brought themselves within one of the specified exceptions mentioned above. For example, many of the diploma mills encountered by the committee were incorporated prior to September 19, 1939, thus coming within a proviso that the key provision "shall not apply to any university, college or seminary of learning which prior to September 19, 1939, has been * * * chartered under existing laws as an educational institution with the power to confer degrees and continuously offered and * * * conducted, from the first day of January, 1939, to September 19, 1939, regular courses of instruction in such subjects."

Another provision in this same article *requires* every school, college or seminary of learning with the power to confer any professional diploma, degree or certificate to file annually with the State Superintendent of Public Instruction a verified report showing the number, names and addresses of its students, the courses of study, names and addresses of teachers and subjects they teach, the degrees, diplomas or certificates granted, to whom granted and the work done to earn them (Ed. C. Sec. 24213).

While this section might, at first glance, appear to afford a means whereby diploma mills might be uncovered, it has failed to serve this purpose for a variety of reasons, not the least of which is the fact that the major educational institutions in this State have consistently refused to comply with it.

ASSEMBLY BILL No. 1277—1957 REGULAR SESSION

This bill would repeal and add Article 1 to Chapter 2 of Division 12 of the Education Code, relating to the incorporation of colleges.

This bill would have permitted formation of a corporation for the purpose of establishing a junior college, college, university or seminary of learning, to be designated as an educational corporation, as a nonprofit corporation, rather than as a corporation for profit, by complying with provisions of the Corporations Code relating to nonprofit corporations.

It would have required corporations organized on and after July 1, 1958, and authorized to issue, confer, or participate in issuing, conferring, or granting specified diplomas or degrees, to file with Secretary of State a copy of instrument evidencing fact that the incorporators are holding in irrevocable trust for the corporation interest in real or personal property, an affidavit of president or head of corporation that real or personal property is to be part of educational plant or will furnish income for support there, and an appraisal by person, firm, or corporation, to be selected by Secretary of State, setting forth description of property and appraised value thereof, which shall be at least (1) $100,000 if corporation is to be authorized to conduct seminary of learning, (2) $200,000 if corporation is to be authorized to conduct junior college, (3) $400,000 if corporation is to be authorized to conduct college, or (4) $600,000 if corporation is to be authorized to conduct university.

The bill prohibited the issuance of any bachelor of arts, master of arts, master of science, master of education, doctor of education, doctor of philosophy, or other degree utilizing the letters A.B., M.A., A.M., M.Sc., M.Ed., Ed.D., or Ph.D., by any corporation organized or doing business in this State on and after July 1, 1958, unless it has filed the documents described above with the Secretary of State.

The bill prohibited any person, firm, or corporation to represent itself as junior college, college, seminary of learning from doing business in California, except corporations qualified under provisions of this bill.

It made it a felony for any person, firm, or corporation, other than qualified corporation, to represent itself as junior college, college, university, or seminary of learning and which issues, confers, delivers or grants any certificates, diplomas, degrees or other document evidencing proficiency, achievement or completion of courses of instruction in such institution. Required Attorney General to apply for injunction against any violation.

It exempted University of California, state colleges, publicly operated institutions, and educational institutions which are members of Western College Association, Northwest Association of Secondary or Higher Schools, Association of Independent Colleges and Universities of California.

It permitted exempt educational institutions and qualified educational institutions to conduct annual examination which student of unqualified institution may take. Provided that if student passes examination institution of attendance may award appropriate degree or diploma.

ASSEMBLYMAN SHERIDAN N. HEGLAND'S OPENING SPEECH

This hearing is being conducted by a subcommittee of the Assembly Interim Committee on Education created by House Resolution No. 285 of the 1957 Session of the Legislature.

The subcommittee has been authorized to ascertain whether and to what extent degrees are being cheapened by sales, barter or the issuance thereof to persons who do not meet the qualifications required of applicants for such degrees by reputable institutions of learning.

The purpose of this hearing is to fulfill the duty imposed upon the committee by House Resolution No. 269 expanded by the duty to make similar studies with respect to other degrees, by, among other things, securing information which will supply answers to the following questions:

1. Do schools of the type mentioned in the resolution exist, and are they guilty of the practices mentioned therein or of similar practices?

2. If such schools and practices exist, do they exist in sufficient quantities, and are the practices sufficiently injurious to students and the public, to justify state regulation of all schools offering such degrees or certificates?

3. Recognizing the undesirability of governmental infringement on the academic freedom of private schools and colleges, do facts exist which would constitutionally justify legislation directed only at schools and colleges which are not accredited or are not recognized by reputable professional associations.

4. To what extent if at all, do existing laws cover the practices complained of and could the evil, if it exists, be reached by simple amendments to the existing laws?

5. What type legislation, if any, is recommended?

The classical degrees have a rich history. Among them are the A.B., A.M., the Ph.D. and the M.D. These, with others trace their history to the ancient days of Socrates and Athens. The integrity of these degrees, if complaints are accurate, is being defrauded by unscrupulous men who bootleg these degrees for cash and some members of the public are being treated for physical and mental illnesses by persons not qualified by academic standards. But the very heart of education for free men is freedom within education itself. The winds of freedom must blow for all education, public and private, tax-supported and nontax-supported, if in fact this Nation's educational institutions are to remain substantially unhampered by harsh governmental controls. We hope to find some happy solution to curb at least the more offensive practices in the bartering of degrees, and yet preserve the freedom of action essential for education for free men.

REPORT

Assemblyman Sheridan Hegland, Chairman of the Issuance of Degrees Subcommittee, said in his opening remarks before the public hearing in Los Angeles that "the subcommittee has been authorized to ascertain whether and to what extent degrees are being cheapened by sales, barter or the issuance thereof to persons who do not meet the qualifications required of applicants for such degrees by reputable institutions of learning."

In order to show that such conditions do in fact exist, the subcommittee decided to present this report in case history form.

This report is divided into four large categories, three of which indicate the fields in which most degrees, certificates, and diplomas are being sold, purchased, and bartered: i.e., the healing arts, academic degrees, and religion. The fourth category is that of the educators, of the colleges and universities which necessarily have the largest stake in the fraudulent traffic of higher educational degrees.

It should be noted that, although adequate proof exists to show that the following cases are actually of the "diploma mill" variety, no effort has been made to present the proof in this report. Many hours were spent by trained and competent investigators to gather the data and evidence to complete files on each of these cases. Since a legislative subcommittee is for the gathering of information leading to future legislation, it was not necessary that all of the proof be presented at the hearing.

THE HEALING ARTS

The healing arts field in this "diploma mill" study seems to be the largest and most lucrative for the operators of this type of business. Covered below are cases in hypnotism, psychoanalysis, nursing, medicine, and general counseling. In most cases it is readily discernable that inadequate training, near-fraudulent claims for courses, and out-and-out sale of degrees is the basis for including them in the study.

GRABEEL CASE

Orville Lee Grabeel, alias Dr. Lee Grabel, was arrested on August 20, 1957, by the Los Angeles County Sheriff's Department for violation of Ordinance No. 4662, which regulates the practice of hypnotism in Los Angeles County. On August 22, 1957, he pleaded guilty to the violation, was fined $100 and sentenced to 20 days in the Los Angeles County Jail. Seventy-five dollars of the fine and the jail sentence were suspended.

Orville Lee Grabeel testified before the committee that he had received his Ph.D. degree from Sierra States University of Los Angeles in 1947, and that he held a B.A. degree from National College of Toronto.

Grabeel said that he received the B.A. as a major in physical education, and that he got it "by extension work." Under questioning it developed that the "extension work" consisted of mail order courses, with some "interviews" with a Dr. James, who was on the staff of National College. Grabeel admitted that the interviews were in hotel rooms in various parts of the United States, where he "just happened" to meet Dr. James during Grabeel's travels around the United States. Grabeel said that, although he took anatomy, physiology, English, and ancient history as part of the course, the degree was in physical education.

Grabeel testified that he received his Ph.D. from Sierra States in 1947 after completing about 200 hours of classroom work. Under examination he admitted that he would go to "school" about one day a week and that he took all the courses from a Dr. Gindes, who was his sole instructor. The classes consisted of psychology and hypnosis. He claimed to have gone to school from January until September, 1947, and that he paid about $200 for the degree.

Grabeel admitted that he had completed only three years of high school. He told the committee that he was a professional wrestler by trade and goes under the name of Dr. Lee Grabel.

Of significance are the following excerpts from the actual testimony of Oroville Lee Grabeel:

Mr. Loebl: And how long have you been so treating people?

Mr. Grabeel: Oh, I've been giving suggestions for—off and on for approximately five years.

Mr. Loebl: And you said it was under the direction of a doctor?

Mr. Grabeel: Yes, I worked as a technician.

Mr. Loebl: And the doctor is a licensed physician and surgeon in this State?

Mr. Grabeel: The doctor is a licensed chiropractor, and I also give suggestions under the prescription of an M.D.

Mr. Loebl: And the M.D.'s name is what?

Mr. Grabeel: Different M.D.'s. I have different prescriptions.

Mr. Loebl: Do you ever treat people without them being referred from a chiropractor or from a physician and surgeon?

Mr. Grabeel: Definitely not.

Mr. Loebl: I mean if somebody walked in off the street and asked to be treated, you would not treat them?

Mr. Grabeel: No, they would have to have a consultation with the doctor first.

Mr. Loebl: Did you ever have occasion to hypnotize or to treat David B. Keesling?

Mr. Grabeel: David B. Keesling? I don't remember.

Mr. Loebl: Mr. Keesling, to refresh your memory, was one of the deputy sheriffs that participated in your arrest.

Mr. Grabeel: Yes, I remember.

Mr. Loebl: Now, which doctor referred him to you?

Mr. Grabeel: Doctor Medidovich was there at the consultation all the time.

Mr. Loebl: He is the chiropractor with whom you share offices?

Mr. Grabeel: That is right.

Mr. Loebl: Medidovich, was he responsible for referring Mr. Keesling to you?

Mr. Grabeel: He was present at the time. I don't know who was responsible for referring him.

Mr. Loebl: Well, you stated before that all of your patients or clients were referred to you by a doctor.

Mr. Grabeel: When they come in Doctor Medidovich is there and sits in on the consultation.

Mr. Loebl: He could come in off the street?

Mr. Grabeel: They could come in off the street and he would be there but he would be the one that would prescribe the consultation.

On the following page is a copy of the diploma that Orville Lee Grabeel received from Sierra States University, for which he paid $200, went to approximately one "class" per week for some nine months, taking two courses, one in hypnotism and one in psychology.

CALIFORNIA SCHOOL OF PSYCHOANALYSIS

The California School of Psychoanalysis was first brought to the attention of authorities when several legitimate physical therapists were approached by Clyde F. Johnson, who tried to interest them in obtaining a Ph.D. degree in return for the payment of a fee.

Clyde F. Johnson testified that he started this school as a business venture, that he obtained "printed courses" which he sold to people, and that after they read them, and sometimes even before they read them, they would receive a degree. Mr. Johnson freely admitted that he had operated a "diploma mill" but stated that he lost money at it because he wasn't a "smart operator." He attempted to sell his


Sierra States University
College of
Psychology
Be it known that
The Directors of the University upon recommendation of the Faculty and by virtue of the Authority vested in them by the State of California have awarded to
Orville L. Grabel
who has successfully completed a prescribed Course of Study and complied with all other requirements for graduation, this
Diploma
Conferring the Degree of
Doctor of Philosophy
with all Honors, Rights and Privileges thereunto appertaining
In Witness Whereof We have hereunto affixed our Signatures and the Seal of the University at San Francisco, California, this 15th day of September, 1947
PRESIDENT

"courses" for $580 each, which included the Ph.D. degree, but that the most he ever obtained for one was $100 and that he sold one for as little as $10. He claimed that actually he only sold about 20 courses all together and that he felt that his business venture into the "diploma mills" was a losing situation.

As for his own education, Mr. Johnson testified that he went to the Detroit College of Psychology, and that he paid about $400 for a degree in Ph.D. in psychology. He said it was his opinion that the Detroit school was also a "diploma mill." He stated he also attended the Waddington School of Medicine from which he received a legitimate education to become a physical therapist, although he wasn't licensed in California to practice.

Of interest is the following testimony by Mr. Johnson on the operation of a "diploma mill."

Mr. Loebl: You said you asked if I knew the cost of setting up a "diploma mill"?

Mr. Johnson: Yes.

Mr. Loebl: I don't. Would you care to tell us how much it did cost?

Mr. Johnson: Probably my ego wouldn't permit me to say that I had an out-and-out "diploma mill" because if I were to set up a "diploma mill" I would go downtown and buy some gold certificates for $10 a hundred rather than to have the imprinting put on. I could have gone to a cheaper printing house, but I paid the most expensive, as you see, it is a beautiful looking diploma. I paid $15 for the printing and I got a cut rate on my name, incorporating the name in there by an artist at 35 cents a name, so, a "diploma mill" cost less than $50 if you would even go as far as to get a city license for $16. But, and if you are going to amortize over just 100 diplomas your cost is under 50 cents a diploma.

Mr. Loebl: So that having you make over 50 cents plus the time——

Mr. Johnson: No I am one of the stupid ones. I had a course—mine involved some printing, office and everything else, and my cost went into many, many dollars and I might say this, at this time if I might, because there was no law set up to prevent such an operation, I lost thousands of dollars and I wasn't the only one.

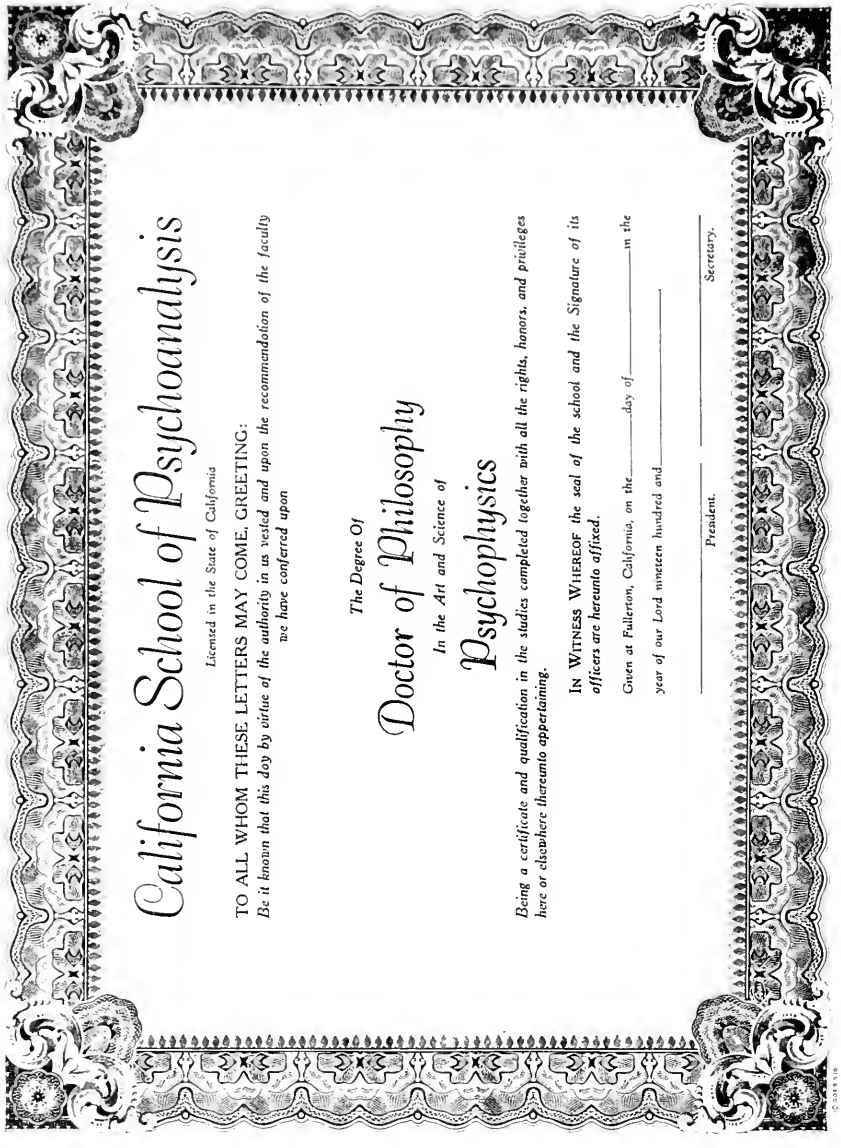
Mr. Loebl: Do you think that there is any danger to the public in permitting people who are inadequately trained to obtain these advanced degrees?

Mr. Johnson: Well, as you and I both know, and I am sure you are familiar with it, that a psychologist presently requires a few dollars for a city license and he is a psychologist. You have had the hypnosis and you have had the psychologist, psychotherapists; but psychologists are not familiar what damage they can do with a traumatic case. What can I do to prevent the individuals that I have personally issued these certificates to from going down there and applying for an uncertified license? Now, I'm only one of them and I believe was strictly honest when I started into this thing. It was honest and it was ignorance and it was costly, but your damage hasn't been done yet. Your damage is going to be done if these people can go down and get a license to practice even under certified psychologists. That is when your damage is going to be done. I got enough sense to say I'm going to quit.

Mr. Loebl: Approximately how much did this whole operation cost you out of pocket?

Mr. Johnson: Oh I really wouldn't know the figures. I know that I sold my plane when I needed another 1,500 and I had another 1,000 and I know Dr. Goldson put in 1,600 and then there was Beckett at 1,400. So figure it out and I have got a whole garage full of courses, not complete courses, but uncompleted courses. And I have got a seal. It is a nice looking seal and some blank diplomas, which I wouldn't say "diplomas" if you paid me a thousand dollars for it. We call them certificates.

On the following page is a copy of the diploma of the California School of Psychoanalysis.



California School of Psychoanalysis

Licensed in the State of California

TO ALL WHOM THESE LETTERS MAY COME, GREETING:

Be it known that this day by virtue of the authority in us vested and upon the recommendation of the faculty we have conferred upon

The Degree Of

Doctor of Philosophy

In the Art and Science of

Psychophysics

Being a certificate and qualification in the studies completed together with all the rights, honors, and privileges here or elsewhere thereunto appertaining.

In Witness Whereof the seal of the school and the Signature of its officers are hereunto affixed.

Given at Fullerton, California, on the_____day of_____in the year of our Lord nineteen hundred and_____

_____ President. _____ Secretary.

EVANS CASE

Henry L. Evans is the operator of the Evans Institute of Hypnosis. He testified that he opened his "school" because he was interested in hypnosis and thought it was a good business venture. He claimed that he did not offer any degrees, but that students who finished his course received a certificate to show that they had completed a course in hypnotism. He also stated that the business venture had not been going

so good, that the classes were small and that he had not received as much money for the courses as he thought that he would when he started the venture.

Mr. Evans said that he gave the courses in hypnotism purely so that graduates would be able to entertain and that there was no thought in his mind of treating people for disorders.

The danger, of course, in this type of operation is that it has been shown that hypnotism is extremely dangerous in the hands of the uneducated and in Mr. Evans' operation, no effort was made to ascertain that people who took the courses were educationally or mentally fit to practice hypnotism.

It is to be noted that Mr. Evans holds a city business license made out to "Henry L. Evans (Hypnotic School)."

On the following page is a sample of the certificate that Mr. Evans issues to students completing his course.

There follows significant excerpts from the testimony of Mr. Evans:

Mr. Loebl: What kind of instruction does that school give?

Mr. Evans: I myself do all the instructing and it is on an entertainment basis.

Mr. Loebl: What do you mean by an "entertainment basis"?

Mr. Evans: We teach hypnosis for entertainment purposes. We steer far away from therapy. In fact, it is stated many times during the course to stay away from therapy unless you are qualified to practice it.

Mr. Loebl: Is there any danger in your mind in teaching hypnosis for entertainment purposes?

Mr. Evans: I am convinced that there is danger in hypnosis, yes. However, I feel that after the person has finished with the course that they are fully qualified to entertain with it in a safe manner.

Mr. Loebl: How much does this course cost?

Mr. Evans: Fifty dollars up until the last course at which time I raised the price to 60.

Mr. Loebl: How many students have you had since you instituted the course?

Mr. Evans: This year I have had 26 students.

Mr. Loebl: And how many hours total do they use in instruction?

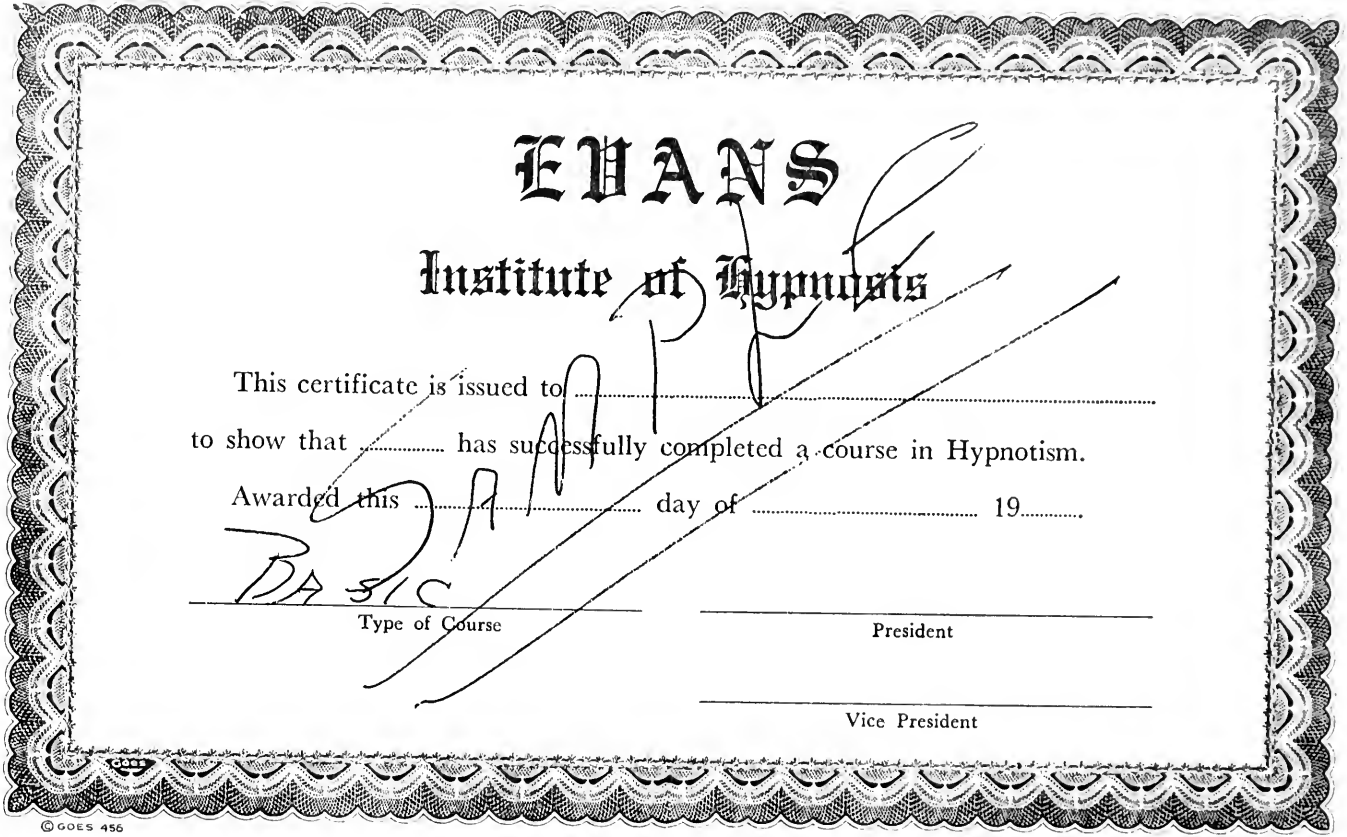
Mr. Evans: Total of 24 hours. As I say, this is very basic course.

Mr. Loebl: Are you familiar with the Aurea Publishing Company in New York?

Mr. Evans: Yes, I have seen their advertisement in magazines and I wrote to them and received some correspondence from them. For different prices, say for example, $3, they will send you a list of schools where you can get degrees in psychology or degrees such as D.D. and different schools.

Mr. Loebl: What is your own personal educational background?

Mr. Evans: I do not have a degree of any sort. I went to high school in Illinois and I have no degrees, I'm not a psychologist. I'm only a hypnotist.



EVANS

Institute of Hypnosis

This certificate is issued to .....

to show that ..... has successfully completed a course in Hypnotism.

Awarded this ..... day of ..... 19.....

DA SIC

Type of Course

President

Vice President

LAMB CASE

Another case involving the use of hypnotism is the case of Isom Richard Lamb. Mr. Lamb operated a school of hypnotism and issued Ph.D. degree to graduates of his school. One of his students, Kenneth Forshaw has used hypnosis on his stepdaughter, apparently causing her to regress a great deal, which has, according to testimony, affected her schoolwork.

Mr. Lamb testified that he was President of the National Hypnological Society and that as such he conducted weekly classes in Ontario, California. People who graduated from his school were given Doctor of Philosophy degrees from the Biopsychological Research Society and College, Inc. of Boise, Idaho. Lamb would not admit that he controlled this so-called college, but evidence in the possession of the committee indicates that he does. Lamb admitted that after investigators called on him and other members of the society, he took back from several graduates their diplomas and substituted an "honorary degree of Doctor of Philosophy."

Pictured on the following page is a copy of "honorary" degree that was obtained by the committee.

Kenneth Forshaw, in an interview with investigators, stated that he had joined the National Hypnological Society in February of this year and that he expected to get a Ph.D. degree when he completed his course in November of this year. He admitted that he had on several occasions, hypnotised his stepdaughter, but that he felt that he had not done her any harm. Admitting to an eighth grade education, he told the investigators that after he gets his diploma he will be able to open a practice as a consulting psychologist.

Other witnesses in this case testified that they were of the opinion that the experiments in hypnotism practiced on Forshaw's stepdaughter had shown harmful effects and that during the period when such experiments were taking place that regression had been noted in the child at school. Expert opinion was not produced to show that this was definitely caused by hypnotism, but opinions of teachers and counselors at the school which she attended, pointed in this direction.

Significant parts of the actual testimony at the hearings follows:

Testimony of James E. Ferguson, a member and officer in the National Hypnological Society, and associated with Isom Richard Lamb:

Mr. Loebl: Were you present at any interviews or rather any demonstrations in which a young girl was used as a subject?

Mr. Ferguson: Yes.

Mr. Loebl: How many times did this occur?

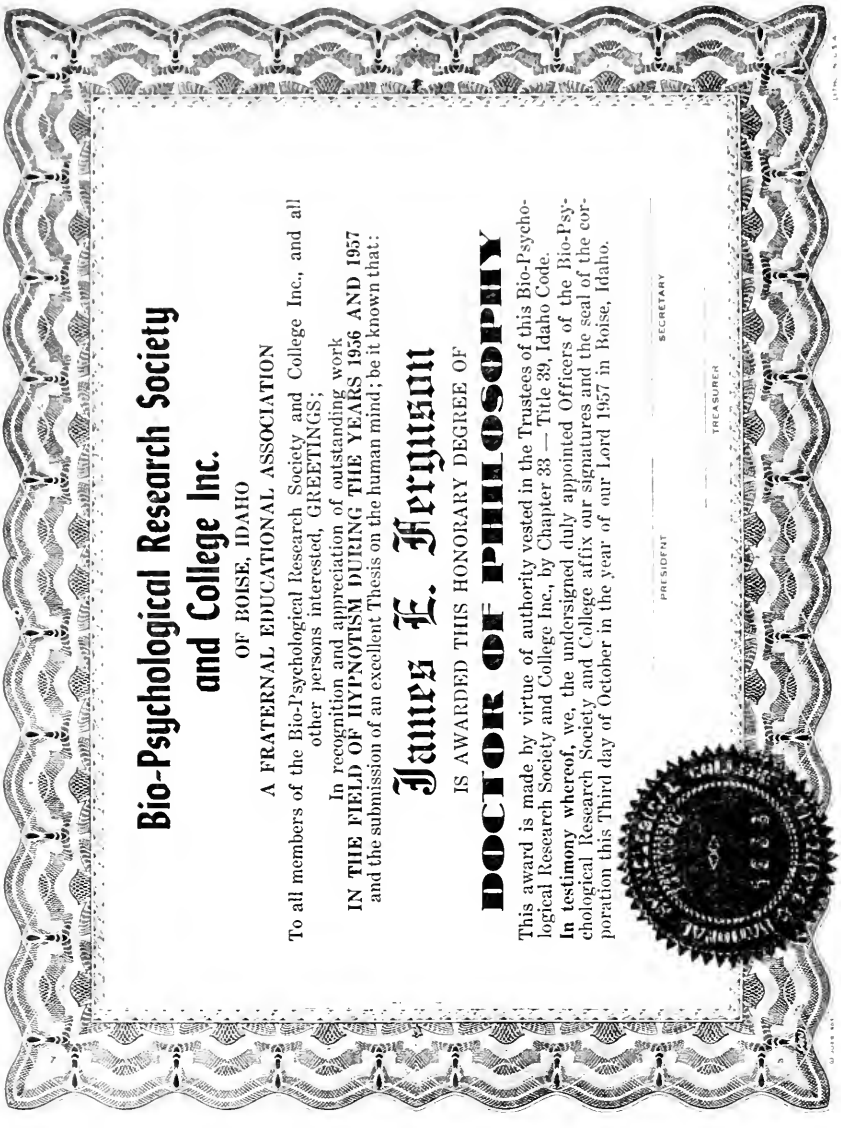
Mr. Ferguson: Oh, I believe three or four times, but there were two different girls.

Mr. Loebl: What were their ages?

Mr. Ferguson: Oh, I would say around nine and 13.

Mr. Loebl: What did the demonstration with the nine-year-old do? What did it consist of?

Mr. Ferguson: Only to show an improvement in playing the accordion.



Mr. Loebl: In other words, she was hypnotized and told to play the accordion, is that correct?

Mr. Ferguson: That is correct.

Mr. Loebl: If this had been your nine-year-old daughter, would you have permitted her to be the subject of that demonstration?

Mr. Ferguson: Oh, very definitely.

Mr. Loebl: Now, as far as the 13-year-old girl, what was the nature of the demonstration of which she was the subject?

Mr. Ferguson: There were several. There was the taste control and as an aid in learning.

Mr. Loebl: Do you feel there are any dangers in the improper use of hypnosis?

Mr. Ferguson: Not if anyone has been trained in the use of hypnosis.

Mr. Loebl: And do you feel that Mr. Lamb is properly trained to avoid the dangers of hypnosis?

Mr. Ferguson: Yes, I do.

Mr. Loebl: Do you know his educational background?

Mr. Ferguson: No, I do not.

Testimony of Isom Richard Lamb, National President of the National Hypnological Society and operator of a hypnosis school in Ontario:

Mr. Loebl: What is your educational background?

Mr. Lamb: In California, I have graduated in 1913 Garfield School, grammar school, in Santa Monica, and I went to high school at Fullerton at Santa Monica. I did not finish in the State. I had nine months of training at Pacific State Hospital as a psychiatric technician. And there were several in this State, several courses, that I took at these different hypnotism schools that had claimed that they had something new and many of them did, you know, in the field.

Mr. Loebl: What further academic or educational training do you have?

Mr. Lamb: I studied psychology at the Montopolis School of Education just outside of Austin, Texas.

Mr. Loebl: What was the nature of the degree?

Mr. Lamb: Ph.D.

Mr. Loebl: Any further educational training?

Mr. Lamb: Yes, various courses in the armed forces, mostly math and fire control as machine gun sergeant and map making, leadership, and the usual army courses.

Mr. Loebl: Did you participate in the hypnotizing of a little girl in your classes in Pomona?

Mr. Lamb: I did.

Mr. Loebl: What did you intend to accomplish by these demonstrations?

Mr. Lamb: The parents of the little girl stated that she was taking accordion lessons and was having a little bit of difficulty in concentrating on it and they wanted to see if the use of hypnotic suggestion would improve the child's ability to play. And knowing, as I do, that too often the stimulus that reaches the organism loses out and distolerates itself before it is integrated and therefore the person trying to learn something is not able to come up with the reaction of culture, and in this case I knew that I could by simple suggestion stimulate the receptors for the child so that she would be able to integrate whatever was requested of her, also the memory factor coming in the integration there would enable her to produce satisfactory reaction, the very best of culture that she had acquired in that particular subject and that was the result.

Mr. Loebl: Mr. Lamb, we have copies of the Biopsychological Research Society and College Incorporated diploma made out in the name of James E. Ferguson, and it says on its face that he is awarded this

honorary degree of doctor of philosophy, and there is no signature of the awarding officer on this. I wonder if you can tell me where these were printed?

Mr. Lamb: Mac's Printing Shop in Ontario.

Mr. Loebl: Can you state why the College in Boise, Idaho, would have its printing work done in Ontario, California.

Mr. Lamb: The reason for that particular phase was this organization had done a great deal of printing for the National Hypnological Society and we recommended the printing shop.

Mr. Loebl: As a matter of fact, you wrote out what you wanted on these degrees and you gave them an order for them, is that correct?

Mr. Lamb: No, the writing out of it was done in Boise, and sent to me through the mail.

Mr. Loebl: I'm going to show you a paper, ruled, lined, paper, with some printing on it and I ask you if this is your writing?

Mr. Lamb: Yes, that was a copy that I made out.

Mr. Loebl: Now, as a matter of fact, Mr. Lamb, isn't it true that you are in complete control of the Biopsychological Research Society and College Incorporated of Boise, Idaho, and that except as an extension of yourself it does not exist?

Mr. Lamb: That is not true.

Mr. Loebl: All right would you state where that falls short? Does it have any real property in Boise, Idaho?

Mr. Lamb: Any real property, no.

Mr. Loebl: Where is it incorporated?

Mr. Lamb: In Boise, Idaho.

Mr. Loebl: And when was it incorporated?

Mr. Lamb: September 20, 1957.

Mr. Loebl: Who is president of it?

Mr. Lamb: There is no president of the organization except the one that the board passed up there, Mr. Corbett.

Mr. Loebl: What is his full name?

Mr. Lamb: I'm not sure that I know.

Mr. Loebl: Have you ever been to Idaho in connection with your duties as trustee of this Biopsychological Research Society and College, Incorporated?

Mr. Lamb: I was there in September and about a week ago.

Mr. Loebl: What did you discuss at that meeting.

Mr. Lamb: The affairs of the organization.

Assemblyman Winton: I would like to go back to something for just a moment. I would have this certificate of the Biopsychological Institute Research Society College, Incorporated, Boise, Idaho, introduced into the record and I would like to point out in that certificate it says it is used by virtue of the authority vested in them by title 39, Chapter 33 of the Idaho Code. Title 39 of the Idaho Code according to our research has no Chapter 33, it ends with Chapter 27. In layman's language there is no code section mentioned in that degree. It is nonexistent. They couldn't have any authority under that section because it doesn't exist.

Testimony of Mrs. Barbara Cunnison, school teacher of one of the small girls who was used as a subject in hypnotism at the Lamb School:

Mrs. Cunnison: At the beginning of the year, I noticed that the child was an emotional problem, not to me as a discipline problem, but primarily as a problem with her schoolmates, and particularly outside class. She was a very talkative child. Extremely talkative, and after I had a conference with the stepfather, I noticed a definite change in the child. She became withdrawn. She seemed—I had no more touch with her. I felt that she was regressing a great deal and continued to do so toward the end of the year.

Mr. Loebl: Was there any other explanation for this except the use in the hypnosis demonstrations?

Mrs. Cunnison: No, not that I know of.

DREW CASE

This case involves degrees in psychology which were granted to Mr. Drew, and the alleged uses to which he put them.

Mr. Drew testified that he held the following degrees: bachelor of arts in psychology from Pacific Oxford University of Las Vegas, Nevada; a master of arts in psychology from Commonwealth; and a Ph.D. in psychology from Commonwealth. He testified that he obtained the bachelor of arts in psychology in June of 1953, that it was issued by Dr. Howard Tawney, president of Pacific Oxford, and that he did no actual academic work for it, but that he obtained it for equivalent work done over the years at various schools.

He testified that he obtained the master of arts degree after spending about seven hours a week at Commonwealth in Los Angeles, working under Dr. Tawney, for "a long time." He testified that he had attempted for six months to get a transcript of his work from Commonwealth but had been unable to do so.

Drew said that he obtained his doctor's degree on December 16, 1955, and that he wrote a 4,500 word thesis on "stress and its effect on the personality." That each of the degrees cost about $400.

Mr. Drew testified that he had never done counseling work, or that he had ever asked any fees for any of the "personnel work" that he did, exeepting that he was in "personnel work" such as selling advertising for the U. S. Chamber of Commerce, being a maitre d' in the Rancho Vegas Hotel, and as camp secretary for the Woodmen of the World.

Another witness, Mrs. Betty Benson, a housewife, testified that she went to the offices of Mr. Robert Drew and that she told him that she needed counseling because of "troubles at home." She testified that he suggested to her that "outside curricula would be advised or probably a separation from my husband." Mrs. Benson also testified that he "just hinted that I search for adventure somewhere."

The committee is in possession of material which indicates that psychologists of this type have done considerable "off-brand" counseling and evidence tends to indicate that some of them have, at various times,

had women patients strip naked and be photographed to "lose their inhibitions." Material also indicates that at times these so-called counselors and patients have gone to desert resorts as part of suggested treatment.

A copy of Mr. Drew's doctor of philosophy in psychology follows.

Commonwealth University

1910

To all to whom these letters shall come

Greetings:

Be it known that the Trustees of the University, upon recommendation of the Faculty and by virtue of the authority in them vested by the State of California, have conferred upon

Robert John Drew

who has satisfactorily completed all requirements and given evidence of good moral character, the degree of

Doctor of Philosophy in Psychology

with all Rights, Privileges and Honors thereunto appertaining.

In Witness Whereof, we have hereunto affixed our signatures and the seal of the University at Los Angeles, Calif., Dec. 16, 1955.

Jean Marcle — Secretary

Howard D. Tawney, Ph.D. — President

PRACTICAL NURSING

It was brought to the committee's attention that there were operating in the Los Angeles area certain schools of vocational nursing which claimed that their graduates would be eligible to go into a career in nursing. Testifying before the committee were two people who took courses at these schools and then discovered that there were no jobs open to them because the training they received was not adequate. Mrs. Barbara Chesler, Executive Secretary of the Board of Vocational Nurse Examiners in California, also testified as to the viciousness and inadequacy of the training offered.

Mrs. Chesler testified that in order to be a licensed practical nurse in California, that it takes a course of about 12 months and then a period of training in an approved hospital. She also said that a registered nurse must complete at the very least a three-year course and that many of them complete five-year courses. She explained that the difference between a registered and a vocational nurse was that "the registered nurse may be expected to exercise a greater degree of judgment than the vocational nurse."

Mrs. Eugenia Williams testified that she attended the California School of Practical Nursing one night a week for five months and received a diploma at the end of this period. It cost her $200 for the course. When she graduated she discovered that the only job that she could get in the hospital was mopping floors. She further testified that she then went to Los Angeles Trade Tech Junior College (a public school), and that she paid only $11.75 for the course there. She went for seven months for 8 a.m. until 2 p.m. every day and put in a period of training in several hospitals. She is now employed as a practical nurse at one of the recognized hospitals in the Los Angeles area.

Mrs. Dorothy A. Baker testified that she signed a contract with the Pacific Institute of Nursing for $195 for a course in practical nursing. The course was supposed to last 16 weeks and that classes were held two hours per week. She said that she attended eight or nine times and then discovered that she was not being taught an adequate course and she also discovered that when she graduated that she could not get a job in any hospital as a nurse. She said that the contract she signed was turned over to a collection agency, and that even though she never completed the course, she is still paying $2 a week so that she is "not put in jail."

The following testimony by Mrs. Chesler sums up the problem:

Chairman Hegland: Is it true that some of the people who take these courses which do not meet your standards do it quite innocently and in some cases go out and treat sick people believing that they are qualified?

Mrs. Chesler: Yes, they do. They obtain jobs through some of the schools which operate placement services, and then they obtain jobs through the newspapers in homes.

Chairman Hegland: So actually it is possible that there may now even be some of these people today in some of the homes of Los Angeles taking care of people who believe they have a competent nurse and the nurse herself believing she is competent?

Mrs. Chesler: That is right.

California School of Practical Nursing

This Diploma

Is awarded to Eugenia L. Williams

who has completed in a satisfactory manner the prescribed course of training in

Practical Nursing

In testimony thereof, the seal of the California School and the President, Director, Superintendent and Superintendent of Training have been attached at Los Angeles, this Fourth day of October 1954

Philip R. Richardson President Louis R Altshuler Director

Philip R. Richardson Superintendent Jean McMillan R.N. Superintendent of Training

WILLIAM BERNARD BUCHANAN

Mr. Buchanan testified that he is a dietitian and a nutritionist. He testified that he purchased a medical degree from the Universidad de Libra Mexicana in Mexico City, and that he paid one Adolph Oosterveen $1,100 for the degree. He said that at the time he purchased it, it was his intention to go to Mexico to practice medicine. He also has purchased a doctor of chiropractic degree for which he did no work. He has purchased a doctor of philosophy degree for which he made a thesis and had an oral examination. He said that he purchased the D.C. degree from Oosterveen and that it had cost him $300.

Mr. Buchanan said that he purchased a doctor of naturopathy degree from Golden State University and that it cost him about $200. In summing up the money he had paid for degrees, Mr. Buchanan estimated that he had paid about $2,000 for all of the degrees.

Mr. Loebl: $1,100 is a considerable sum. How did you expect to get the $1,100 worth of value out of the degree that you received?

Mr. Buchanan: That I do not know other than just I would be permitted to practice herbology in Mexico.

Mr. Loebl: Was this degree accompanied by a certified copy of your supposed transcripts of credit, transcripts from the Universidad de Libra Mexicana?

Mr. Buchanan: That's right.

Mr. Loebl: So far as you know, today you are licensed to practice medicine and surgery in one of the Mexican states?

Mr. Buchanan: That was the information I received.

Mr. Loebl: Did you do any academic work for the other degree?

Mr. Buchanan: Nothing, only herbology and nutrition.

Mr. Loebl: But the D.C. degree that you received was also purchased?

Mr. Buchanan: Yes, that was purchased.

Assemblyman Doyle: How did Mr. Oosterveen find you? How did he know that you had some money?

Mr. Buchanan: I was a member of the Naturopathic Organization in the State of California, and I attended some of those meetings and I got acquainted with him there.

Assemblyman Doyle: What did you do in your home of McFarland?

Mr. Buchanan: In McFarland I was a common laborer.

Assemblyman Doyle: Were you ever told that you would be able to use this medical degree in the State of Maryland as well as in New Jersey?

Mr. Buchanan: No, I was told just in New Jersey.

TESTIMONY OF ARCHIE G. ROSS, ASSISTANT SECRETARY OF THE STATE BOARD OF MEDICAL EXAMINERS

One of my duties as assistant secretary is to direct the enforcement program for the Board of Medical Examiners. I would first like to thank the committee for the opportunity of being here and to present some of the problems that we have encountered in the field of diplomas. As the committee knows, the Legislature in the interests of public

health and safety recognized the need for some control over persons diagnosing and treating the sick and afflicted in California as early as 1876, when the first Board of Medical Examiners was created by legislative enactment. Although there have been many changes in the composition of the board throughout the years, one of the basic purposes and aims have remained quite constant, and that is to examine credentials and applicants and determine that only qualified and licensed persons are practicing medicine.

This board employs eight special investigators who are charged with enforcing the provisions of the Business and Professions Code, regulating the practice of medicine and surgery. Under the California law, only approved medical schools are admitted to the written examination for licensor. There are further provisions in the law which allows the board to approve certain medical schools. Of course, the law is quite complex and there are certain exceptions such as foreign medical schools. The board is in no position to examine every foreign medical school, and there has beeen a provision in the code allowing the board to accept such credentials provided they meet other requirements as outlined in the law.

We have found that some of the courts do not feel the law is broad enough to cover all the circumstances that we have found to exist in issuing of credentials. A person holding a limited license such as a license of physical therapist, a midwife, chiropodist, and many others, if able to obtain a degree with little or no formal training may be able to display such a diploma in his office and in that way represent to the public that such person is qualified to perform a professional service beyond that which his license would allow him to perform. If a person is practicing illegally, and has in his possession a fraudulent diploma or diploma obtained with very little formal schooling, such person could quite conceivably practice medicine in California for a considerable period of time before the matter may come to our attention. Our investigative staff of eight men must police approximately 35,000 licentiates as well as enforce other provisions of the Business and Professions Code regulating unlicensed practice of medicine. We would like to briefly refer to some of these investigations in which questionable diplomas and fraudulent documents were used to convince the public that a person was qualified in the field in which the purchaser had little or no formal education.

THERAPIST USING PURCHASED DEGREES

In the City of Carmel in April of 1954, the board had occasion to make an investigation of a person by the name of Charles L. Bossieux. This person was reported to the board by the City Attorney of Carmel, the complaint being that the man was practicing a form of therapy. Our investigation disclosed that this man was a former waiter, working on the Union Pacific Railroad, who claimed he studied physical therapy at an institution in Los Angeles from 1942 to 1948 on a part-time basis. He admitted upon being questioned that a portion of this time he was employed as a waiter on the Union Pacific. He claimed to also hold a

doctor of divinity degree from the First Christian Philosophical Church and College of Oakland, California, having graduated in 1925. He claimed the school was defunct when interviewed in 1954. He did, however, have in his office where he was practicing two diplomas issued by the National University of Therapeutics, one conferring upon him the degree of doctor of physical therapy dated June 18, 1926, and the other conferring the degree of doctor of naturopathy, dated June 12, 1946. He stated he had received these degrees in St. Petersburg, Florida, having attended this institution run by a Joseph Shelby Riley, M.D., N.D., D.D., Ph.D., as president and Elizabeth N. Riley, D.C., as secretary.

Our information would indicate that Mr. Riley or Doctor Riley is dead.

When this man was questioned how he was able to obtain a diploma in St. Petersburg, Florida, school, operated and chartered in the District of Columbia, he stated he had met Doctor Riley in St. Petersburg, Florida, and upon payment of the fee of $50 had received the two diplomas.

He admitted he had been treating various patients and using a form of zone therapy. Mr. Bossieux was advised to discontinue and advised of the law. He readily surrendered the diplomas to the agent of the board. And he had been further advised that perhaps it would be better if he went back to work for the Union Pacific as a waiter.

DOUBTFUL DIPLOMAS

We have a matter that came to our attention where a man filed an application for a licensor as a physical therapist. At the same time he filed an application for registration as a physical therapist. As you know, the Board of Medical Examiners administers both of these acts. At the time the man filed the application, which was August 16, 1954, he submitted documentary evidence of having received a diploma from the American Health Association, Incorporated. This diploma is dated April 1, 1951, granting him the degree or title, physiotherapist. The diploma indicates the American Health Association was chartered in the State of California on June 25, 1917. The diploma is signed by A. F. Rhodes, who also issued a diploma as evidence of having completed a prescribed course of instruction in endocrinology, dated May 15, 1951, and a diploma issued by the Sierra State University College of Naturopathy, conferring a doctor of naturopathy title upon this man on April 1, 1951.

These diplomas, had they been substantiated with transcript of records from the school, in all probability would have been accepted. Our records indicated that the man was unable to obtain any transcript of record for his medical education, or physical therapy education. And on the basis of that, our records indicate our credentials committee and the examining committee for the licensed physical therapist turned down the man's application. We do not know the authenticity of these diplomas. We only know that he was unable to substantiate the transcript of record concerning the issuance of a diploma.

NARCOTIC USER HAS MANY PHONY DIPLOMAS

Subsequent to the denial to this man's two applications one for registration, one for licensing, we have received information he was arrested by the Los Angeles Sheriff's Narcotics Squad and the man was taken to the police department for possession of narcotics. At the time of his arrest he had in his possession the following documents: a photostatic copy of a diploma as a graduate of the Institute of Drugless Therapy of Tana, Iowa, dated October 23, 1951. He also had a photostatic copy of an ordination certificate issued by the American Mission, giving this person authorization to perform marriages, bury the dead, baptize believers and conduct communion services. This document is dated December 9, 1948. He also had in his possession business cards stating he was an educator, psychologist, specialist in child and adolescent educational and psychological problems. He also had an original diploma issued by the Golden State University, granting him the degree of bachelor of arts on July 16, 1954. He had an original document with him titled: Board of Examiners, American Naturopathic Association of California, stating he was a naturopathic physician granting a certificate of proficiency, dated May 1, 1951, and signed by an Adolph Oosterveen, N.D., Ph.D., secretary. We noticed this man, Oosterveen, having been instrumental in an investigation which resulted in his arrest for selling fraudulent medical credentials issued from the Universidad Libra Mexicana, in Mexico. He also had a diploma dated September 1, 1954, issued by the Chicago Medical College of Homeopathy of Calcutta, India, entitling him to the degree of doctor of medicine and master of surgery in homeopathic science. He also had an original document issued by the Doctors Association of Calcutta, India, granting him the title doctor of honor, dated October 21, 1954. He also had a document dated July 20, 1954, entitled a certificate of proficiency practice registration and diploma of membership certifying that he was an N.D., Ph.D., as an associate member of the British Health Association, granting him the title of health practitioner. These documents when you look at them appear quite authentic.

He also had in his possession a caduceus, which is normally placed on an automobile of a licensed physician and surgeon. In fact, a caduceus is a licensed physician. We call particular attention to this document entitled "The Chicago Medical College of Homeopathy" as we propose to make further comments concerning this matter as we have another document in which a man was arrested and convicted where he had the same type of document.

We believe the committee might be interested in the similarity of the dates on all of these documents. It is quite amazing how this man has been able to obtain all these degrees covering all these fields in such a short period of time, and covering the different countries that seem to be involved in them. We next would like to mention the investigation the board conducted.

PRACTICING MEDICINE WITHOUT LICENSE

William Colepaugh, a man who was arrested by some agents of the Board of Medical Examiners during the month of February, 1957. He was practicing medicine without a license. At the time of his arrest he had in his possession morphine and demerol, which as you know are narcotics regulated by the State of California.

We believe you will understand how it was possible for him to have these narcotics in his possession when I outline the circumstances under which he was arrested, I believe. He was employed as a physician at a clinic in the Los Angeles area. The arrest followed a house call by Mr. Colepaugh in which he injected shorts of streptomycin and demerol. He advised the patient he was on the staff of the Los Angeles County Hospital. For some reason or other the husband of the patient didn't believe that this man appeared to be a legitimate physician. Subsequent to his arrest the Board of Medical Examiners received information that Mr. Colepaugh had obtained another position as a physician with another local clinic. He was again arrested and at the time of the arrest he had in his possession a medical license, allegedly issued by the California Medical Board of Examiners. Upon closer examination it was discovered he had in his possession a photo copy of a medical license issued by the board. However, the signature and seals were missing from the document.

In support of his license, however, he had in his possession another diploma, issued by the Chicago Medical College of Homeopathy of Calcutta, India, dated November 19, 1952. This is the document we wished to call the committee's attention to as it is very similar to the other document. It is not exactly identical to the document, however, the wording on it is identical. Mr. Colepaugh claimed he found the license in the city dump.

He says he had inserted his name on the document and rephotographed the document so that he could remove the word "sample" which he claimed was across the original document. To our knowledge there is no such thing as a "sample" of a Board of Medical Examiners' license.

Honored with these fictitious documents and a medical diploma he was able to obtain employment in various positions in Los Angeles. Our investigations disclosed the man had no formal medical education. We believe, however, that this is how he was able to obtain the demerol, the narcotics involved. He had completely fooled the physicians who he was working with.

RELIGION

The committee discovered during these hearings that it is entirely possible in the State of California to obtain ordination certificates at a nominal price. These certificates are legal and entitle the holder to marry, bury and counsel the public.

While the incidents covered in this report would indicate that more fraud than religion has been practiced by the purveyors of ordinations, the committee also recognizes that the First and Fourteenth Amendments to the United States Constitution render it extremely unlikely that valid legislation in this field can be drafted or enacted. This question is now being studied.

In two cases evidence was presented that doctor of divinity degrees were obtained via the "diploma mill." Nevertheless, there is no evidence to support the supposition that this is prevalent.

In no cases found during the hearing or by the committee investigators were any of the recognized major denominations found to be connected or referred to in the fraudulent obtaining of ordination certificates.

CHURCH OF THE MASTER

Committee investigators learned through informants that it would be possible to obtain through the mails an ordination certificate from the Universal Church of the Master located in Oakland, California.

Letters were sent to the church and the committee investigator was informed that he would receive an ordination certificate and a church charter on sending $30.20 to B. J. Fitzgerald at the Universal Church of the Master. This was done and by return mail an ordination certificate, church charter, two books, and instructions, were received.

See copies of the ordination certificate and church charter on the following pages.

At the hearing B. J. Fitzgerald said that he was presently the head of the Universal Church of the Master and that there were 40 or 50 branch churches in California, and that there were other branches all over the world. Mr. Fitzgerald stated that his training for the ministry consisted of being associated with a Christian minister for over 25 years, and that he trained under the previous president of the Universal Church of the Master for some three years on such things as public speaking, platform etiquette and how to counsel. He stated that the previous president was Doctor Briggs, a doctor of dentistry who also had a Ph.D. Mr. Fitzgerald testified that all of the ordination certificates and charters issued were recommended by other ministers and members of the church. Mr. Fitzgerald said that he was going to revoke the ordination certificates of the committee investigators because they were obtained under false pretenses and because of the bad newspaper publicity.

The following excerpt from the testimony of B. J. Fitzgerald is felt to be of value:

Mr. Loebl: Now, what is the absolute minimum requirement as far as teaching goes for the new ministers prior to their ordination?

Universal Church of the Master

Incorporated

NATIONAL HEADQUARTERS

OAKLAND, CALIFORNIA

Organized Nov. 19th, 1908 *Certificate No.* 222

Certificate of Ordination

This Is To Certify,

All men, that the Universal Church of the Master, *of the State of California, United States of America, have this* 8th *day of* October 1957. *Ordained* Juanita Turriance *a Minister of the Gospel, by authority vested in us by the Constitution of the United States, and of the several States, by us as such, do authorize* her *to solemnize Marriages, to officiate at Funerals, to perform and administer Divine Healing, give Inspirational and Spiritual Counsel and Communications, to Prophesy, including to warn, exhort and comfort members, individuals and our fellow beings, for their Spiritual and temporal good (1st Corinthians, Ch. 12;) and to perform any and all duties that may devolve upon* her *as a Minister of the Gospel of the* Universal Church of The Master *and declare* Reverend Juanita Turriance *a Minister of the Gospel of the* Universal Church of The Master *in accordance with law.*

Also authorized by the Articles of Incorporation filed with the Secretary of the State of California, at Sacramento, the Capitol City, holding duly signed Charter No. 87308 dated November 27, 1918, copies filed in the Office of County Clerk, in the City and County of Los Angeles and at Oakland, County of Alameda, State of California

Given under our hands and seals at Oakland, State of California, this 8th *day of* October, 1957.

Signed ..... *Minister*

Subscribed and acknowledged before me this ..... *day of* 19

Notary Public in and for the County of ..... *State of* .....

A. Fitzgerald *President*

Mabel R. Taylor *Secretary*

Mr. Fitzgerald: There is no minimum. We accept recommendations from other churches where a person already has a degree of a minister and he comes to us and recommends him, we accept him in on a minister's membership.

Mr. Loebl: Now as a matter of fact, in some instances at least you don't even know who these people are, is that correct?

Mr. Fitzgerald: That is true.

Mr. Loebl: So if a minister wrote in and said he knew another minister and he wanted to become one of your group you would ordain him, is that correct, and issue him a branch charter?

Mr. Fitzgerald: That is not correct.

Mr. Loebl: You have never done that?

Mr. Fitzgerald: No. They have to sign a membership card and become a member of the church first before any credentials are issued regardless of their qualifications or references.

Mr. Loebl: Do you check out those references—do you examine them in any way or do you take their word for it?

Mr. Fitzgerald: Yes, if the references are sufficient, if the qualifications are confirmed, why we accept it and if they are qualified according to what we think they can do good and be a minister, why the credentials will be issued.

Mr. Loebl: Now, how much do you charge to ordain each of these people?

Mr. Fitzgerald: There is no charge. Our bylaws say that a nominal amount will be deposited like any fraternal organization. The deposit would be $18.50 when they send in their application.

Mr. Loebl: The new ministers also have to buy some books?

Mr. Fitzgerald: It is not mandatory, but we suggest it because we feel that it is invaluable for any minister to have a manual to help.

Mr. Loebl: They are permitted to go out and marry people, is that correct?

Mr. Fitzgerald: Well, if they have the credentials and it is issued to them, they have the authority to perform marriages, yes.

Mr. Loebl: But, you don't consider that a loophole that you have permitted them to hold themselves out as being able to perform marriages and in fact under state law they are able to perform marriages before your board has really examined their qualifications?

Mr. Fitzgerald: No, because ordinarily, usually, in fact, we have had very little difficulty on that type—we have never had to rescind the certificate of a person before the board met. And therefore, it has been our experience that it has not been a loophole of any kind.

Another witness at the hearing concerning the matter of the Universal Church of the Master, was Mrs. Juanita Purviance, a housewife who testified that on request of the committee, she wrote to Doctor Fitzgerald and obtained an ordination certificate and a church charter. Portions of her testimony follow:

Mr. Loebl: Mrs. Purviance, what is your business or occupation?

Mrs. Purviance: I am a housewife.

Mr. Loebl: The past two or three weeks have you had occasion to correspond with B. J. Fitzgerald in Oakland?

CHURCH CHARTER NO. 130

Officially Chartered

By

Universal Church of the Master

(INCORPORATED)

NATIONAL

Headquarters and Principal Place of Business, Oakland, California.

Whereas by and under the proper statutes *Universal Church of The Master* **is a body politic, having been incorporated under the laws of the State of California, November 27, 1918; and being granted all corporate privileges and entitled to teach Truth as follows, to-wit:**

Tenets

The Fatherhood of God and the Brotherhood of Man

1st —Organize, establish and maintain Churches, Centers.

2nd—Promote and emulate the Christian principles as set forth in the Holy Bible and The Aquarian Gospel of Jesus the Christ, and as thus authorized by the Four Gospels including 1st Corinthians, Ch. 12, to appoint Ministers to give Inspirational and Spiritual Communications, and to Prophesy, including to warn, exhort and comfort members, individuals, and our fellow beings for their Spiritual and temporal good.

3rd —Teach Ancient History, Geography, Astronomy, Biology, Psychometry, Philosophy and Science.

4th —Investigate the several phases of Psychic Phenomena, Spirit Return and Psychic Research, including Home Study and Demonstration Classes.

5th —Encourage, Teach and practice Divine Healing in all its Modes and Phases.

6th —Hold Meetings, exchange views, endeavoring to keep abreast of advance thought. Also hold Home Group Circles.

7th —Teach Morality, to propagate the Brotherhood of Mankind and Universal Love.

Therefore, these presents witness: That the following persons whose names follow, are the officers and trustees of the

Universal Church of The Master

Officers	*Trustees*
B. J. FITZGERALD, PRESIDENT.	THOMAS E. CHAPMAN,
MAE A. FITZGERALD, VICE-PRES. & TREAS.	R. E. BARRICK,
V. GLADYS EDWARDS, BISHOP.	MAE FITZGERALD,
MABEL R. TAYLOR, SECRETARY.	A. B. CROOKS,
	AMELIA B. CHAPMAN.

In testimony whereof, the officers of the *Universal Church of The Master* **have hereunto signed their respective names and caused the Seal of the Incorporation to be hereto affixed.**

Done at Oakland, this 8th **day of** October **, 19**57.

B. J. Fitzgerald — President

Mabel R. Taylor — Secretary

Calif. Dept. of State Corps. No. 87208 Nov. 27, 1918

THIS IS TO CERTIFY: That this Church Charter No. 130 issued October 8th, 195 7 in the name of REVEREND JUANITA PURVIANCE, as Pastor and Minister who holds Certificate of Ordination No. 222, and is her authority to organize, form and operate as an Auxiliary Church of this the Parent-Body—UNIVERSAL CHURCH OF THE MASTER, as provided for in the Rule Governing the Granting of Church Charters and Certificates of Ordination, as contained in the Constitution and By Laws of this Church. (Note Rule 6.)

This Church Charter is non-transferable and must always function with REVEREND JUANITA PURVIANCE as Pastor and Minister and when Board of Officers is installed, due report and application must be made to Church Headquarters and another Charter will be issued or this Charter endorsed accordingly, if found necessary. In the meantime, this Church Charter No. 130 with REVEREND JUANITA PURVIANCE as Pastor-Minister, shall be recognized fully as a bona fide Auxiliary Church of this the Parent-Body, as hereinbefore mentioned as provided.

B. J. Fitzgerald
PRESIDENT
UNIVERSAL CHURCH OF THE MASTER,
GENERAL NATIONAL HEADQUARTERS,
Oakland, California

(SEAL)

October 8th 1957

Mrs. Purviance: Yes I have.

Mr. Loebl: And what did you write to him?

Mrs. Purviance: I wrote a letter to Mr. Fitzgerald stating that I would like to have an ordination certificate and a church charter in order to start my own church.

Mr. Loebl: And what did you receive from Mr. Fitzgerald?

Mrs. Purviance: I received by return mail a letter from Mr. Fitzgerald welcoming me and stating that upon receipt of these moneys that they would be very happy to have me into the organization.

Mr. Loebl: And as a matter of fact, the money that was requested was $30.20 total?

Mrs. Purviance: Yes.

Mr. Loebl: Including some $18.50 for the certificate?

Mrs. Purviance: Yes, it was.

Mr. Loebl: And did you also have to fill out an application card or cards?

Mrs. Purviance: Yes, I did, they included my name and an address of two people that were permanent residents near me that knew me.

Mr. Loebl: And did anything else accompany your application or any other letters or anything written?

Mrs. Purviance: Yes, Rev. Robert Martin sent a letter stating that I had been associated with him and that he recommended me and his letter accompanied my original letter. After I received the letter back asking for the money, I sent a postal money order to B. J. Fitzgerald in Oakland and accompanied by a short note that I was in a

hurry to receive these documents. I received a church charter, a certificate of ordination, two books and my identification card.

Assemblyman Doyle: Have you ever attended any meeting of the Universal Church of the Master?

Mrs. Purviance: No, I have not.

Assemblyman Doyle: Have you ever attended any meeting or taken otherwise any type of training from this particular church organization?

Mrs. Purviance: No, I have not.

After the hearings, committee investigators called on Mr. B. J. Fitzgerald in Oakland at the office of his attorney, and examined the books of the Universal Church of the Master. It was determined that during the past 10 years Mr. Fitzgerald has issued about 1,500 ordination certificates. Records apparently show that none of the money was directly traceable to Mr. Fitzgerald but all of it went through the books of the Universal Church of the Master.

MOSKOWITZ CASE

This case involves one Irwin M. Moskowitz, a television documentary writer, who purchased an ordination certificate from a local "diploma mill."

Mr. Moskowitz testified that he called up an organization in Los Angeles and told them that he needed an ordination certificate at once. At first he was told that some training was necessary but after interviewing Mr. Moskowitz he was told that if he could pass the test he would be given the ordination certificate for $50. Consequently Mr. Moskowitz passed the test, on an overnight basis, and received his ordination certificate.

Following is a portion of Mr. Moskowitz' testimony:

Mr. Moskowitz: I went to see a man in this office after previously telephoning him and telling him that I would like to be ordained as a minister and take his course. He asked me what my motive was and I told him that I had a job opportunity as a lecturer in comparative literature and I would like to be ordained right away, it would help me cinch the job.

At first he told me that this might take months to become properly ordained in the church that he ran, but finally, after much arguing with him, he said, "Well, I'll give you all the lesson books, and you take them home and tomorrow you come here and I will have your ordained ministry certificate, and he charged me—he wanted to charge me $50 for that and he told me that I couldn't become an ordained minister until I first became what is called a licensed practitioner. I argued with him about that. I said, "I don't want to be a licensed practitioner; I just want to be an ordained minister," and I let him sell me on the idea of buying the extra degree, on the grounds, according to him that the licensed practitioner degree would license me to practice also as a faith healer and make a large sum of money.

Mr. Loebl: There were some essay-type questions in the examination that you had to take?

Mr. Moskowitz: Yes. In order to become a duly certified faith healer, or as he calls it in his organization, a licensed practitioner, I was asked some questions about something called "master mind science," which I still don't understand, and I was also asked in one question to write a short essay telling about my previous experience in faith healing. Apparently he is very cautious about that sort of thing, judging from this, and I told him about how my sister became ill once and I suggested to her that if she were a good girl that she would get cured and she got cured and apparently that was satisfactory to make me a faith healer in his organization.

Assemblyman Doyle: What school was this you attended?

Mr. Moskowitz: Well, it is kind of hard to tell you the answer to that because some of my lesson books came from Psychology Associates. Others came from, I believe, Analytical Thinking from Searchlight College in Nevada. And the office that I was ordained in had the sign "Commonwealth University" on the outside. And the telephone number I called in order to become ordained was listed under "Educational Associates."

O. A. KELLY

O. A. Kelly testified that he held degrees as a doctor of philosophy, doctor of divinity, doctor of naturopathy, and physiotherapy, and had an ordination certificate. He said that his formal education consisted of graduation from grammar school, that he had never gone to high school and that he had never gone to any other schools.

The ordination certificate was from the Spiritualist Temple of the All-Seeing Eye, the doctor of divinity degree was from Sierra States University, the doctor of philosophy degree was from Sierra States University, the doctor of physiotherapy was from Golden State University and the doctor of naturopathy was from Golden State University. And that these degrees were issued between June 15, 1948, and April 14, 1957.

Mr. Kelly testified that he had spent about $1,000 for all of the degrees over the years.

Mr. Loebl: You did practice as a consulting psychologist?

Mr. Kelly: Metaphysical psychology, yes.

Mr. Loebl: What form did that practice take. Did you treat people?

Mr. Kelly: No, you do not treat people. Any more than you counsel them from a religious angle.

Mr. Loebl: What were their complaints when they came to you for counseling?

Mr. Kelly: Well as a general rule they want to know themselves better. I do not counsel anyone that's sick.

Mr. Loebl: How can you tell if they are sick or not?

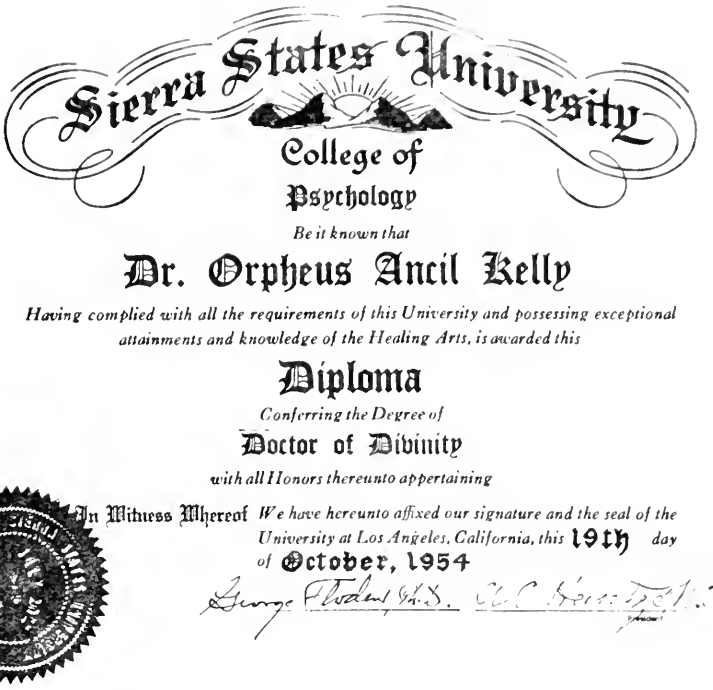
Mr. Kelly: Well, I don't know, but if they look sick—

Mr. Loebl: If they come to you and tell you they are sick you don't counsel them. Is that right?

Mr. Kelly: Of course not.

Mr. Loebl: What happens if they are not sure whether or not they are sick?

Mr. Kelly: Well, I have to trust my own good judgment there. If they look like they need competent work, I don't do anything about it.



Sierra States University

College of

Psychology

Be it known that

Dr. Orpheus Ancil Kelly

Having complied with all the requirements of this University and possessing exceptional attainments and knowledge of the Healing Arts, is awarded this

Diploma

Conferring the Degree of

Doctor of Divinity

with all Honors thereunto appertaining

In Witness Whereof We have hereunto affixed our signature and the seal of the University at Los Angeles, California, this 19th *day of* October, 1954

George Flodell, D.S. [illegible]

Mr. Loebl: How does the consulting psychologist differ from the theocentric philosophy that we also see on your personal card?

Mr. Kelly: There is no difference. I might explain something here. We have a new law, as you are all aware of, I was advised to put on record if I wanted to become a psychologist, and I thought that presenting that on my cards and getting a business license would establish the fact that I intended to be a psychologist.

Mr. Loebl: Who so advised you?

Mr. Kelly: I think I got some of this information from ALCAP.

Mr. Loebl: Would it be a more accurate name by the American League of Applied Psychology?

Mr. Kelly: That's it, yes.

Mr. Loebl: What are the qualifications for membership in ALCAP?

Mr. Kelly: I don't know what the qualifications are. I have been operating in the field professionally for about 30 years and as far as I am concerned the qualifications were $500 for a life membership.

Mr. Loebl: What has been the advantage that you have obtained for the $500?

Mr. Kelly: None as yet. I expect to be a consulting psychologist and I expect them to protect my interests, as a political organization they are.

Mr. Loebl: Whom have you contacted at ALCAP?

Mr. Kelly: Robert Moran and others.

Mr. Loebl: What connection with the organization does he have?

Mr. Kelly: I don't know exactly what he does hold in it except that he was up at the State Legislature last—when the bill was passed—and seemed to be one of the main men.

Mr. Loebl: Do you know Adolph Oosterveen?

Mr. Kelly: I met him twice.

Mr. Loebl: Have you received any certificate or diploma or degree from him?

Mr. Kelly: I did, it was supposedly a State Board, Naturopathic Board paper.

Mr. Loebl: Tell the committee about that one.

Mr. Kelly: "This individual has successfully passed the Naturopathic Board and is entitled to this, that, and the other thing."

Mr. Loebl: Which state was that?

Mr. Kelly: California.

Mr. Loebl: And in fact did you pass any board or take any exam?

Mr. Kelly: Of course not.

Mr. Loebl: How much did you pay?

Mr. Kelly: This again is something I don't recall, but it was around $30.

Assemblyman Winton: Mr. Kelly, would you briefly explain to me what a naturopath is?

Mr. Kelly: Health in the natural arts, I understand it to be. My interpretation is correct diet and correct habits of living without the use of needle or knife.

Assemblyman Winton: And do you have that degree of naturopath?

Mr. Kelly: Yes, that is what it says.

ACADEMIC DEGREES

The academic field of the "diploma mill" proved the easiest for the operators to run. It was shown that many mail-order bogus degree-houses run throughout the United States and indeed the world. Testimony was received that it was possible, through one eastern catalog business, to obtain a degree in any subject, from any country in the world. Material in possession of the committee shows that a Los Angeles advertiser offered degrees from "Order de At. Hubert of Lorraine —Italy (chivalry titles) for such things as knight, baron, viscount and count with fees shown as admission tax $30 to $750." Others were "Academia Stvdiorvm Minerva (Italy) honorary doctor's degrees in most subjects (office fee $75)"; "master of metaphysics—cash $50, terms $58"; "doctor of metaphysics—cash $85, terms $100"; "Research University C.A.—life fellow—(nonprofit corporation) fellow in research awarded to workers in any field of human knowledge or endeavor—registration fee $25.00. On the same brochure was offered the following: "upholstery trades school; complete upholstery course with all tools and furniture outfits. The finished furniture that you will complete with materials furnished could pay for your complete course; cash $257.50, terms $280—$10 down, $10 per month."

The cases that follow, which were presented at the Los Angeles hearing, are thought to typify the whole field of the academic degree from the "diploma mill."

GREENBRIAR COLLEGE

Anthony James Gange, alias Michael Johnson, was arrested in August of 1956 for violation of the Education Code of the State of California, because he was selling degrees without holding a state education charter. Gange pled guilty and received a suspended sentence.

Mr. Gange testified before the committee that he started Greenbriar College because he felt that people in this day and age needed a college degree in order to get ahead. He said that he did not bother to get a charter for the college, and that he just thought the name sounded good. He advertised in a national magazine that the degrees of B.A. and B.S. were available, that for a fee of $1 he would send the examination that it was necessary for people to pass. The instructions with the examination were that the people taking the test could use any reference material available and that if they passed with a grade of 75 percent or more that for another fee of $9.50, the B.A. or B.S. would be mailed them.

The following excerpts from Mr. Gange's testimony are considered pertinent to the operation of this "diploma mill."

Mr. Loebl: Now, would you tell us a little bit about what you tried to do at Greenbriar College.

Mr. Gange: I tried to make some money.

Mr. Loebl: Now would you tell us exactly what the operation consisted of?

Mr. Gange: Advertising on a national scope, replies were answered with a form letter offering a bachelor's degree in return for passing a test in the fee of $9.50.

Mr. Loebl: Where did you get the questions for the test or examination that you gave?

Mr. Gange: I did the research necessary and prepared the test myself.

Mr. Loebl: What is your own personal educational background?

Mr. Gange: Two years of college at Compton Junior College.

Mr. Loebl: And how are you employed now?

Mr. Gange: I'm employed in construction trades as a steam fitter.

Mr. Loebl: Approximately how many people answered your ads and wrote in to the school during the course of its operation?

Mr. Gange: It was in operation for almost two months and I imagine I received several hundred replies.

Mr. Loebl: And were those from as far away as places like Finland?

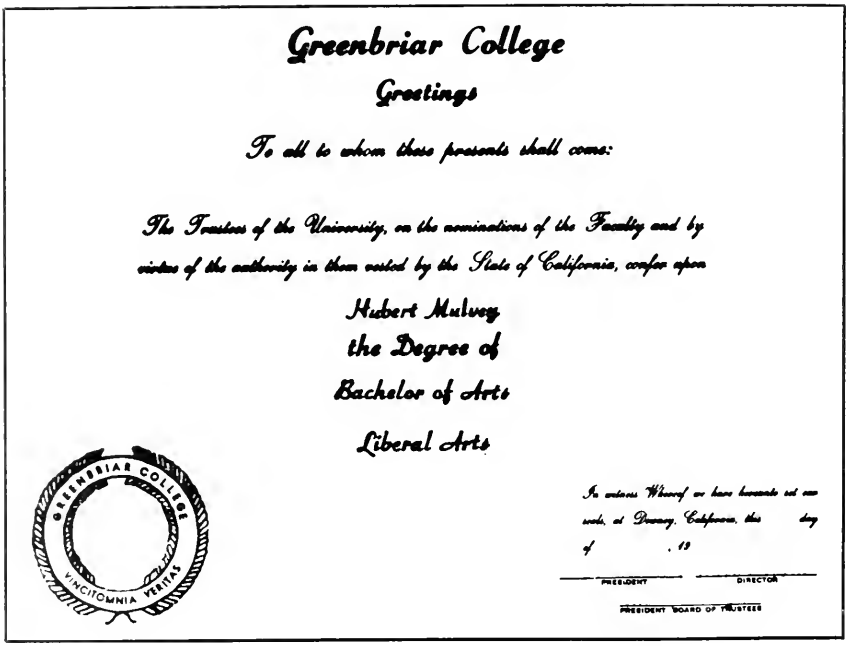
Mr. Gange: Yes, Finland, Austria—I got them from all over.

Mr. Loebl: Is it a fair statement to say that your school was just getting started when it was closed?

Mr. Gange: Yes, I only ran the small ad in the Popular Science, classified section, and I was ready to quit work and put all the money into ads I could possibly get a hold of because there seemed to be a crying need. People just wanted to get fleeced and I wanted to take advantage of the market when it was still hot and then, the authorities got me.

Chairman Hegland: Mr. Loebl, is it true that the reason you were able to take such swift action in this case, was because we did not have in the case of Greenbriar College a charter issued prior to 1939?

Mr. Loebl: I believe that in part was the answer. The other part was that there was no charter at all, and that constituted, according to the office of the district attorney or at least the deputy that was presented with the case, a criminal violation which would not have existed if there had been a charter.



Greenbriar College

Greetings

To all to whom these presents shall come:

The Trustees of the University, on the nominations of the Faculty and by virtue of the authority in them vested by the State of California, confer upon

Hubert Mulvey

the Degree of

Bachelor of Arts

Liberal Arts

GREENBRIAR COLLEGE
VINCIT OMNIA VERITAS

In witness Whereof we have hereunto set our seals, at Downey, California, this day of , 19

PRESIDENT DIRECTOR

PRESIDENT BOARD OF TRUSTEES

WESTERN UNIVERSITY

Western University of San Diego was owned and operated by Glennie Corinthia Gay, who testified that she purchased its charter in 1946 and ran it until she sold it in August of 1957 to Dr. Clyde H. McMorrow of San Diego.

Mrs. Gay testified that she had both given away and sold degrees during her operation of the university. She also testified that she had just started operating Western University when the Federal Trade Commission signed a cease and desist order against her because of the faulty operation of the school. She said that she did buy some courses "from somebody back east" and that she used these in correspondence work with the Western University.

An investigator who talked to Mrs. Gay said that she told him that one Lloyd Allen had talked to her about opening a "Branch School" of Western University in Pomona and in fact had issued some degrees from the Pomona School against the wishes of Mrs. Gay, because Mr. Allen had not required sufficient "work" for the degrees that he was issuing. The original agreement between Mrs. Gay and Mr. Allen was for a 50-50 split of all the money that was taken in.

Mrs. Gay holds the following degrees, certificates, and diplomas:

Diploma from the College of Swedish Massage of Chicago, Illinois;
Diploma from Sierra States University Research Council of Los Angeles awarding a fellowship in the Sierra States University Research Council;
Certificate as a naturopathic physician awarded by the Board of Examiners of the American Naturopathic Association of California;
Doctor of naturopathy by the American Naturopathic Association;
Certificate of ordination of the Unity Spiritual Science Incorporated, "The Church of Prophecy and Spiritual Healing" of Dallas, Texas;
Certificate from the American Institute of Family Relations, Los Angeles signed by Paul Popenoe;
Certificate from the International Society of Naturopathic Physicians of Los Angeles;
Life membership certificate in the American Naturopathic Association of West Virginia;
Life membership certificate in the Naturopathic Association of Alberta, Canada;
Diploma in practical psychology of the Culturist College of Science and Philosophy, affiliated with the Inter-National Constitutional Church Association of California;
Diploma in religious philosophy from the Culturist College of Science and Philosophy;
Spiritual commission issued by the National David Spiritual Temple of Christ of Kansas City, Missouri;
Certificate of membership as a minister and member-at-large of the Federation of Spiritual Churches and Associations, Inc.;
Doctor of philosophy from Unity University of Ontology, Unity Spiritual Science, Incorporated of Dallas, Texas;
Doctor of duotherapy and divine healing from the Culturist College of Science and Philosophy;

Fellowship certificate from the Research Council of Emerson University of Los Angeles;
Membership certificate of the California Physical Therapists Association of California;
Bishop-at-large for the United States of America from the Inter-National Constitutional Church of Los Angeles;
Ordination certificate from the Inter-National Constitutional Church;
Doctor of divinity from the International Constitutional Church; N.D.;
Naturopath Doctor (Naturopathic Physician) from the Spino-Neural Chiropractic College, founded in 1909, of San Diego.

Mrs. Gay admitted to the investigator that she did little or no academic work in order to get most of these degrees, but only paid money.

The Board of Examiners
American Naturopathic Association
of
California

Having examined the credentials of

Glennie Gay

to determine her qualifications as a

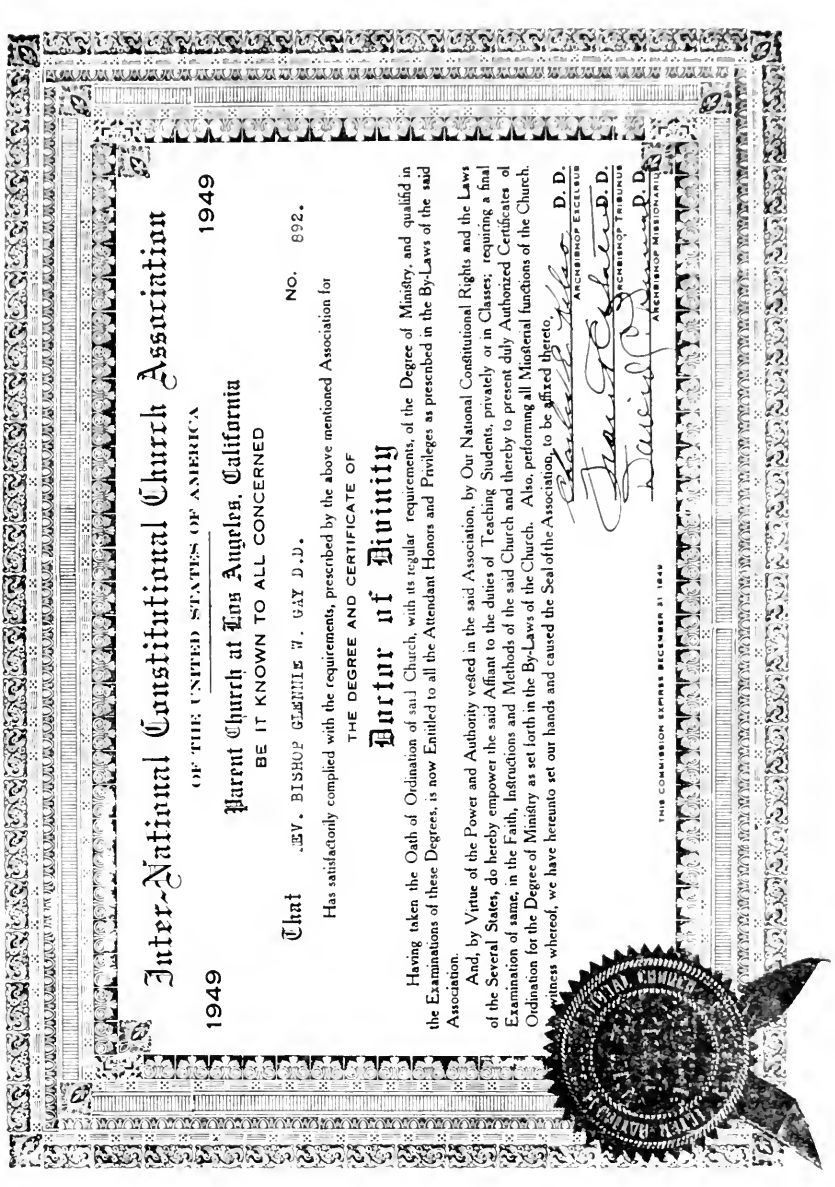
Naturopathic Physician

finds that she has met all professional and ethical requirements and hereby grants her this certificate of proficiency.

Los Angeles, California May 13, 1954

BOARD MEMBER BOARD MEMBER PRESIDENT BOARD MEMBER

BOARD MEMBER SECRETARY



Inter-National Constitutional Church Association

OF THE UNITED STATES OF AMERICA

1949 1949

Parent Church at Los Angeles, California

BE IT KNOWN TO ALL CONCERNED

That REV. BISHOP GLENNIE W. GAY D.D. No. 892.

Has satisfactorily complied with the requirements, prescribed by the above mentioned Association for

THE DEGREE AND CERTIFICATE OF

Doctor of Divinity

Having taken the Oath of Ordination of said Church, with its regular requirements, of the Degree of Ministry, and qualifid in the Examinations of these Degrees, is now Entitled to all the Attendant Honors and Privileges as prescribed in the By-Laws of the said Association.

And, by Virtue of the Power and Authority vested in the said Association, by Our National Constitutional Rights and the Laws of the Several States, do hereby empower the said Affiant to the duties of Teaching Students, privately or in Classes; requiring a final Examination of same, in the Faith, Instructions and Methods of the said Church and thereby to present duly Authorized Certificates of Ordination for the Degree of Ministry as set forth in the By-Laws of the Church. Also, performing all Ministerial functions of the Church.

In witness whereof, we have hereunto set our hands and caused the Seal of the Association, to be affixed thereto.

D. D.
ARCHBISHOP EXCELSUS

D. D.
ARCHBISHOP TRIBUNUS

D. D.
ARCHBISHOP MISSIONARIUS

THIS COMMISSION EXPIRES DECEMBER 31, 1949

Portions of testimony of witnesses in this case follows:

Testimony of Glennie C. Gay:

Mr. Loebl: During the course of your operation of this school how many degrees did you issue?

Mrs. Gay: Very few.

Mr. Loebl: How much did you get paid for them?

Mrs. Gay: Some of them didn't get anything—somebody just wanted them.

Mr. Loebl: You just gave it out of an act of friendship?

Mrs. Gay: Yes, some of them.

Mr. Loebl: Why?

Mrs. Gay: I don't know. People wanted them. Somebody came along as my friend.

Mr. Loebl: They never did any academic work for the degrees?

Mrs. Gay: Oh yes, they would write a thesis of about 3,000 words.

Mr. Loebl: Who graded this paper?

Mrs. Gay: I guess I was unfortunate but I seemed to always have some man that was a partner that claimed to be an attorney or college graduate that would take charge of that. In fact they took the money too. I had just about got started good when the Federal Trade Commissioner made their complaint. Then there was a man there who just came in, was going to buy me out or be my partner, and we rented a building and he was over there in the office and he was the one who signed for the registered letter from the Federal Trade Commissioner. He said he was a federal attorney. I wondered if he was. He got by with acting as the attorney and I thought he was returning all this money, that these people were sending in there and that we had there at the time because he was grading the papers and we had quite a few of them and he had some hundred dollar checks there and money orders.

Mr. Loebl: Do you have any idea how much money was involved?

Mrs. Gay: I thought he was sending it back.

Mr. Loebl: No, regardless of that, how much money did he get?

Mrs. Gay: I don't know, but I was pretty sure of six or seven hundred dollars.

Testimony of Dr. Clyde H. McMorrow of San Diego

Mr. Loebl: What is your name?

Dr. McMorrow: Clyde Henry McMorrow of San Diego. I am a licensed physician and surgeon in the State of California.

Mr. Loebl: You purchased the charter of Western University from Mrs. Gay, is that correct?

Dr. McMorrow: That is right.

Mr. Loebl: Why did you purchase it?

Dr. McMorrow: Because I felt that if properly used, it would be an asset to the community and our community needs institutions of higher education.

Mr. Loebl: I am particularly interested, Doctor, in why you purchased this particular charter?

Dr. McMorrow: For two reasons, one is for several years I have known of the charter and of the school as it was and I would take a substandard institution out of existence and possibly be made into an accredited institution.

Mr. Loebl: You consider that important enough so you would spend $1,200 to accomplish it.

Dr. McMorrow: I did it.

Mr. Loebl: You are familiar with its history and its background, what do you intend to do with this charter?

Dr. McMorrow: I intend to establish a school of letters, arts, and sciences.

Mr. Loebl: Do you have any students?

Dr. McMorrow: Yes, we have eight students.

Mr. Loebl: And where do they meet?

Dr. McMorrow: They meet at my residence.

Mr. Loebl: Did it enter into your plans for Western University that for a charter issued after September 19, 1939, you would require a $50,000 certificate of property in that amount used for educational purposes before you could incorporate?

Dr. McMorrow: I knew of that.

Mr. Loebl: Is that one of the reasons why you bought the old charter?

Dr. McMorrow: That is one of the reasons.

Mr. Loebl: That wasn't one you gave before.

KIPENI SU'APA'IA

Kipeni Su'apa'ia, a native of the Hawaiian Islands, testified that he received a Ph.D. and a bachelor of science degree issued by Golden State University in Los Angeles. These degrees were purchased by him in Hawaii through, what he described as their island agent, Dr. Koanohi and that they cost him $1,000.

This case appears to be an outright purchase of a degree with no formal education required or requested by Golden State University.

Reproduction of a degree is found on the following page.

Pertinent testimony follows:

Mr. Loebl: Mr. Su'apa'ia, have you received any degrees from Mr. Vahan Morlian?

Mr. Su'apa'ia: Yes, I have a Ph.D. and the other one is the bachelor of science.

Mr. Loebl: The degrees were issued in the name of Golden State University?

Mr. Su'apa'ia: Yes, that's right.

Mr. Loebl: And they were signed by Vahan Morlian?

Mr. Su'apa'ia: Yes, that's right.

Mr. Loebl: Have you ever attended classes at Golden State University?

Mr. Su'apa'ia: I did not.

Mr. Loebl: Were you told of the supposed custom in the continental United States of making sort of a donation in return for these degrees?

Mr. Su'apa'ia: I was informed by a prominent resident of Hawaii, a doctor, that I can give any donation that I think was proper to help the institution, and so I did.

Mr. Loebl: And this was in return for the degree?

Mr. Su'apa'ia: As I understand is that I gave it as a donation for the——well, it was an honor bestowed upon me and I thought I would be honored in giving something to help the institution, too. I never knew what size of an institution that was giving me the degree.

Mr. Loebl: Do you have any idea what part of that donation of the $1,000 was actually transmitted by the person that you gave it to, to Golden State University?

Mr. Su'apa'ia: I have no idea.

Golden State University

Greetings:

To all to whom these presents shall come.

The Trustees of the University, on the nomination of the Faculty and by virtue of the authority in them vested by the State of California, confer upon

KIPOU SU'APA'IA

the Degree of

Doctor of Philosophy

Signed and witnessed by its President and Secretary and its Corporate Seal hereto affixed.

Given at Los Angeles, California, this 20th day of Jan. Nineteen Hundred and Eighty-six

Nathan Morrison, Ph.D.
President

Secretary

Mr. Loebl: Mr. Su'apa'ia, were both of the degrees received by you from Golden State University at the same time?

Mr. Su'apa'ia: Yes and I was surprised about it. I only knew about the Ph.D. I was only told about it.

Mr. Loebl: Then can you make any statement as to why the Ph.D. is dated January 20, 1956, and the bachelor of science degree is dated June 15, 1951?

Mr. Su'apa'ia: I brought that up to Dr. Kaonohi and he stated that he understands that was the system of the school.

MARY HOBSON CROW

Mrs. Crow testified that she was supervisor of speech correction in the Glendale Unified School District. She said that her education consisted of being a graduate of the Indianapolis Conservatory, the New England Conservatory, a bachelor's degree from University of Southern California, and a master's degree from U. S. C. She also said that she had graduate work of 162 units beyond the bachelor's degree and that she had a doctor's degree from Golden State University.

She testifiied that she worked with Dr. Morlian, President of Golden State University and took 20 units from him, that together with work from Claremont, he granted her a Doctor of Philosophy that cost her $400.

She also testified that she was on the staff of Los Angeles State College for one year and that she used the Ph.D. degree from Golden State University as part of her qualifications and that her salary was based, in part, upon that degree.

Mrs. Crow testified that she was at present attending the University of Southern California, from which she hopes to get a doctor of philosophy degree. When asked why, if she already had a Ph.D., it was necessary to go to U. S. C. and get another one, she admitted that the one from Golden State was "unaccredited" and that "it makes a difference, you know, when people ask you."

To questioning Mrs. Crow said that she has not used her Ph.D. degree from Golden State University as a salary base at Glendale Unified School District.

FREMONT COLLEGE AND SEQUOIA UNIVERSITY

Fremont College and Sequoia University are operating educational institutions in the Los Angeles area. Operated in conjunction with Fremont College is the Fremont Clinic, run by chiropractors, and according to the information in possession of the committee is the west coast headquarters for the Hoxsey treatment of cancer. (Dr. Hoxsey is under ban by the Federal Government and prohibited from shipping his drugs or claims for his method through the U. S. mails.)

Dr. Joseph Hough is the owner of both Fremont College and Sequoia University, but it was not made clear at the hearings whether he has a financial interest in Fremont Clinic. Committee records indicate that Dr. Hough, who is a licensed chiropractor, also holds a medical degree from Universidad de Libra Mexicana, which degree, it has been alleged,

he purchased from one Adolph Oosterveen. Dr. Hough took refuge in the Fifth Amendment to the U. S. Constitution when asked questions concerning his medical degrees, and other personal matters pertaining to his education and his operation of Fremont College and Sequoia University.

In possession of the committee are transcripts of certain students who attended this organization, and it is believed that the records show that this organization is a borderline case where some instruction is given for the degree, but that it does not measure up to the standards of the accredited schools.

Although chiropractory is taught at Fremont College, this school is not recognized by the State Board of Chiropractic Examiners as an accredited school.

Following is testimony relative to Fremont College:

Testimony of Dr. Willoughby W. Sherwood, a staff member at the Fremont Medical School:

Mr. Loebl: You are a licensed physician and surgeon in the State of California, are you not?

Dr. Sherwood: Yes, since 1927.

Mr. Loebl: Now at the present time are you on the faculty of Fremont College?

Dr. Sherwood: I was, but I severed my connection there on September 19, 1957.

Assemblyman Doyle: Dr. Sherwood did you know at the time you were teaching at Fremont College that they were not an accredited school?

Dr. Sherwood: The presumption that I had from things that were told me was that it was an accredited school.

Assemblyman Doyle: I understood you to say that Dr. Hough or someone had a letter from the Governor or Attorney General stating that they were legally within their rights by teaching medicine at Fremont College.

Dr. Sherwood: Practically so. I said this, as far as our teaching medicine that the charter of Fremont College that was granted by the State of California, it specifically states that the degree of doctor of medicine may be given, but it does not state when, how, or how long a person should have to be in college to get it. I say from what I have been told there may be a legal right to give such a degree but I don't believe there is a moral right in doing it.

Assemblyman Doyle: Getting back to the Hoxsey name and his connection with the clinic. Is the clinic in any way involved or is he involved in the clinic as far as the dispensing of the medicines are concerned? Is the medicine that you use that which Dr. Hoxsey prescribed for these patients? What connection does he have? Do you buy those from him or do you package them here?

Dr. Sherwood: I had his formula and they were made in the State of California.

Assemblyman Doyle: Do you pay him a royalty for those?

Dr. Sherwood: Very little.

Assemblyman Doyle: But he is paid a royalty?

Dr. Sherwood: Yes. In addition to that I have a complete pharmacy of homeopathic medications and we are not confining ourselves by any means just simply to the Hoxsey medication. There may be other things and there are other things that are beneficial and I know what some of you fellows are thinking. I wish, that instead of condemning the Hoxsey treatment and claiming that everybody outside of the things approved by the American Medical Association are quack and the only definition of a quack is one who disagrees with the A. M. A.

Assemblyman Doyle: Is there any special institution where one must go to be taught to use the Hoxsey treatment of medication?

Dr. Sherwood: The only place you can go is at either of the Hoxsey Clinics.

Testimony of Jack Lang, aka Paul R. Pitts, dean of undergraduate division, Fremont College:

Mr. Loebl: What is your educational background?

Mr. Lang: I hold degrees bachelor of science and the medical degree of doctor of medicine, both from Fremont College.

Mr. Loebl: Then you went back to Maryland and obtained a homeopathic medical license in Maryland, did you not?

Mr. Lang: I was admitted to licensure by that board, yes.

Mr. Loebl: Have you completed an internship in Maryland?

Mr. Lang: No, I have completed no internship.

Mr. Loebl: Are you licensed or admitted to practice in California?

Mr. Lang: No, I am not licensed to practice medicine in this State.

Mr. Loebl: How many students do you have?

Mr. Lang: I don't know.

Mr. Loebl: When are the courses given, night or day?

Mr. Lang: The courses at the present time consist of entirely of the extension in the undergraduate school.

Mr. Loebl: By extension, what do you mean?

Mr. Lang: I mean by correspondence.

Mr. Loebl: Do you issue degrees on the basis of extension work?

Mr. Lang: Yes, we do.

Mr. Loebl: How many people have gone through that kind of program?

Mr. Lang: I don't know. The Fremont College is an amalgamation of several institutions and I frankly don't know the total number of graduates of all of them, and the board of directors of the college has made a decision, have made an investigation beginning last spring, into the activity or into the medical program of the college. The final decision of the board of directors was to terminate this program. I have been helping to terminate the program, wind it up in general, to examine those students that are in the program at this time, and it is only recently that the board has authorized us to go ahead and stress and emphasize the liberal arts programs.

Assemblyman Doyle: I'm a little confused at the various witnesses as to what they are allowed to do after graduating from this college in the State of Maryland. Did I understand Mr. Lang, you to say that you are licensed to practice medicine in the State of Maryland?

Mr. Lang: That is absolutely correct.

Assemblyman Doyle: Are you eligible to perform an appendectomy in Maryland if you want to do it?

Mr. Lang: If I were in practice and a situation arose where it was indicated I would have the legal right to do it, yes.

Assemblyman Doyle: You would have the legal right to do it, although you admitted here in your studies at this school that you never actually had the internship or the opportunity of performing such?

Mr. Lang: In the State of Maryland an internship is not prerequisite for being examined and licensed by the Board of Medical Examiners. In the State of Maryland an internship is optional and to a large extent the matter of the individual practice is left up to his own discretion as to what his capabilities and limitations are.

Assemblyman Winton: How long did you take to get your bachelor or science degree at Fremont College?

Mr. Lang: This too approximately four years, one of which was at Fremont College, the other three years of which were with the United States Air Force Technical School.

Assemblyman Winton: How often did you attend school at Fremont?

Mr. Lang: I took that senior year through the correspondence program and took my final examination.

Assemblyman Winton: How much time did you spend taking the M.D. degree?

Mr. Lang: Actually, I had some credit toward my medical degree that I had earned prior to even starting my work for the bachelor's degree. This was under the Air Force.

Assemblyman Winton: Have you any idea how many of that 4,000 hours for your M.D. degree was accumulated prior to your graduate work at Fremont?

Mr. Lang: Yes, it was approximately 2,800 to 3,000 hours.

Assemblyman Winton: In other words, you only had about 1,000 hours at Fremont toward this M.D. degree?

Mr. Lang: Yes, that is right.

Testimony of Mrs. Gladys M. Hough, wife of Joseph Hough, President of Fremont College:

Mr. Loebl: Mrs. Hough, what position do you hold at Fremont College?

Mrs. Hough: Treasurer of the board of trustees.

Mr. Loebl: Who else is on the board of trustees?

Mrs. Hough: My husband, my husband's mother, Mrs. Kant, my daughter, Joan Nelson, and my son-in-law, Arthur Nelson.

Mr. Loebl: How much of the stock do you own?

Mrs. Hough: I think I have nine shares out of 269, my husband owns 251 shares, and the rest is divided between the other members of the board.

Mr. Loebl: Do you also have a position on the board of trustees of Sequoia University?

Mrs. Hough: I have the same position as in the Fremont, treasurer of the board of trustees, and the same people are on the board.

Mr. Loebl: Do you know how many students are enrolled at Fremont College?

Mrs. Hough: There are approximately five students who are finishing up their work in the medical division, and then there are numbers of active students in the letters, arts, and science division or rather school.

Mr. Loebl: And what does Sequoia University do now? What does it teach, what course does it give, what degrees does it give now?

Mrs. Hough: Well, actually right now, we are contemplating different programs in Sequoia, principally we wanted to expand the postgraduate school and I think that there was going to be an M.D. degree given.

Mr. Loebl: How many students do you have now?

Mrs. Hough: Actually I would not be able to say because I don't know.

EDUCATORS

A representative group of educators from colleges and universities in Southern California appeared before the committee at the Los Angeles hearings. Also appearing were the Superintendent of Public Instruction, a representative from the California Teachers Association, the Superintendent of Catholic Schools for the Archdiocese of Los Angeles, the President of the Los Angeles County Federation of Churches (Protestant). Following are excerpts from the testimony of this group, which is extremely valuable to the committee in forming new legislation.

UNIVERSITY OF REDLANDS

Dr. George Armacost, President, University of Redlands, Redlands, California:

The statement I wish to make is something along this line: that those of us who are engaged in educational work realize that there is a great deal of effort that goes into the getting of a college degree, and while we may not speak of education exactly as a commodity, it is true that it is a commodity that we feel there are justifiable practices and examples where legislatures have passed enabling laws to protect the purchaser from misrepresentation and fraud. Most people have gotten to the point where they think of a degree, a college degree at least, as representing either a certain number of course units, like 120 units of course work, or four years of nine months each.

CALIFORNIA TEACHERS' ASSOCIATION

Theodore Bass, Assistant Director for Field Service, California Teachers' Association:

Chairman Hegland: Do you know any case, any school district board that has paid to any teacher on the basis of a degree which is not from an accredited school, a larger salary than she would ordinarily or otherwise have received?

Mr. Bass: I know of one case where an attempt was made by a teacher to use a nonaccredited degree to get a salary increase, yes, sir.

Chairman Hegland: Was this successful?

Mr. Bass: It was not.

Chairman Hegland: Do you feel that such a possibility—that there is a real possibility of that occurring in a small percentage of cases?

Mr. Bass: It is a real possibility if two things conjoin. One is if the local teachers association is not alert, and more importantly if the local school administration is not alert, but the possibility is not even one in a thousand.

CLAREMONT MEN'S COLLEGE

Dr. George Benson, President, Claremont Men's College, Claremont, California:

In the spring of 1956 the Western College Association formally brought to the attention of the Association of Independent California Colleges and Universities its concern about the status of the California law relating to the establishment of new colleges and universities. At this time it was pointed out that the laws of California on this subject

had not been thoroughly reviewed since 1939 and apparently there were loopholes and abuses developing.

The association called a special meeting and as a result the following principles were adopted:

(a) There was a need to tighten the existing laws relating to the incorporation of colleges and universities.

(b) The apparent exemption of pre-1939 charters should be eliminated.

(c) The tests should be objective and not subjective. That is the sole test should be one of a minimum capital structure, with no possibility of bureaucratic control.

(d) Recognition should be given for the value of contributed services such as by priests or nuns.

(e) A gradnated scale should be adopted requiring the largest capital by a university.

(f) The required capital could be invested in plant and equipment and need not be free endowment.

(g) The control should be placed in the Secretary of State as is provided in the present law, rather than through the creation of a new state agency for this purpose.

(h) Injunctive remedies should be added and the penal provisions of the existing law should be materially strengthened.

(i) Section 24213 of the Education Code should be revised or eliminated as being an unnecessary burden on the legitimate institutions.

(j) Private education should be kept free of unnecessary control and the right of freedom of choice between private and public education should be maintained.

(k) Legitimate experimentation and the establishment of new worthwhile institutions of higher education should be encouraged.

(*l*) Collegiate institutions granting the classical degrees should qualify as nonprofit corporations under the laws of the State of California.

(m) If this plan were followed, no exception should be requested, not even for accredited colleges or universities.

(n) The officers and legal counsel of the association should co-operate with the Western College Association and the office of the Attorney General.

Mr. Chairman, and members of the committee: I should make it clear that I am testifying on behalf of the Association of Independent Colleges and Universities of California, which include some 25 odd colleges and universities.

I think I can clearly say from our discussion to date, that we do feel it is necessary to have some legislation to protect us from the kind of thing which this committee has been very ably uncovering.

I know there will be some charges raised that our group, that is, the colleges which are established, are opposed to new colleges, and this just isn't true.

I hope to see numbers of other colleges established. I am very sympathetic with the group of so-called Bible colleges, which are doing a legitimate and honest job and most of which are not accredited, but most of which will be. I think that we can devise legislation which will give these new colleges an opportunity to come along.

UNIVERSITY OF SOUTHERN CALIFORNIA

Earl C. Bolton, Vice President, University of Southern California, Los Angeles:

Well, the question of "diploma mills," of course is one that is very repugnant to anyone who is in the field of higher education, because to think that you can purchase what other men must work for 5, 6, 7 and sometimes 10 years to achieve, by the mere payment of money, is not only morally offensive, but it also is I think dangerous for society. Because most of our citizens, I believe, look upon a degree holder as having a certain quantum of knowledge to support that degree and I think the real danger here is not only that these ancient degrees to which Monsignor Dignan referred might be cheapened, but also that society is misled to its own danger and detriment by someone who purports to have a degree which was obtained by money rather than by meeting certain academic standards.

Chairman Hegland: Would you feel that academic freedom would be involved if the Legislature were to ban the issuance of Ph.D. degrees and liberal arts by any institution which did not meet, even though they were not an accredited organization, the basic accrediting provisions for the bachelor of arts degree?

Mr. Bolton: No, I don't think academic freedom would be threatened in that way providing, as I said earlier, that there can be enough flexibility in the legislation in point to provide the type of experimentation which all legitimate institutions wish to engage in from time to time, which I know is implicit in your question.

OCCIDENTAL COLLEGE

Arthur G. Coons, President, Occidental College, Los Angeles:

Educational standards and quality have been a concern of mine for many years. I was a member of the group of educators in 1948 which brought to national attention the desirability of adequate accreditation of colleges and universities. In that day certain agencies of government were concerned about the numerous educational institutions and organizations that had sprung up on the immediate postwar period seeking to qualify to receive payments for veteran education and training under the G. I. Bill, some of which institutions were more or less "fly-by-night." From the efforts of that informal group in 1948 came the formation of the National Commission on Accrediting, representing all the major associations of colleges and universities of the Country; and a strengthening of the work of the six regional accrediting agencies which evaluate the quality of the degrees of the institutions which are members or which apply for membership.

Moreover, I feel certain that there are a number of other colleges in this State which, though not now members of the Western College Association, are respected institutions and hopefully, as their standards and resources improve, will be members which would also thank you.

A charter as a college or university from the State represents a recognition from the State and a sharing of the sovereign power of the State to private individuals for the performance of functions in the public interest. A tax-exemption privilege is also enjoyed which

yields a further basis for public accountability. It is, therefore, wholly right that the bases upon which charters are newly issued should be reviewed; and also right that existing charters should be checked to see that all corporations are carrying on bona fide operations.

CATHOLIC SCHOOLS, ARCHDIOCESE OF LOS ANGELES

Monsignor Patrick J. Dignan, Superintendent:

In the field of theology, there is a long, as we all know, a long, learned tradition. There are genuine degrees such as Heidelberg and all great universities have this great tradition and any legislation should be framed so that academic work which is equivalent in method of research or textual criticism, for instance, or philosophical acumen or whatever the case may be, should be properly safeguarded because sometimes a student has to transfer, for instance, from one area to another to get a different major and valuable work which is really of top scholarly standard might otherwise be forfeited or lost. So with that little proviso I would wholly endorse the statements that I have heard here this afternoon.

UNIVERSITY OF CALIFORNIA AT LOS ANGELES

Paul A. Dodd, Dean, University of California at Los Angeles:

The problem under investigation before this committee, I believe, has not been of major concern to the processes of degree granting within the university for three reasons:

1. All students entering the University of California are required before admission to furnish certified transcripts of academic records maintained at previous institutions. These records are sent directly from the institution and thus are immune from falsification or changes in transmittance.
2. The University of California maintains its own academic rating list of all high schools, universities and colleges. This rating list is based upon the academic accomplishments of students who have come from the various institutions in the past and is always taken into consideration in giving credit to the student for work done elsewhere.
3. In appointment of staff personnel the university always solicits current testimonials and references covering the educational experience of the applicant before appointment is approved. Thus, teaching staff members are recruited only from recognized institutions and then only after satisfaction that the credentials being submitted by the applicant are true and complete.

In this way the University of California has been able to protect itself from unscrupulous or improper activities relating to the issuance of diplomas and other academic credentials. Let it be understood, however, that the university is shocked to realize that such practices as those being uncovered and revealed by deliberations of this committee are taking place about us.

A study was made of the listing in the classified section of the telephone directory in Los Angeles which revealed that less than 10 percent of the people listed under psychology actually had formal college training in psychology; yet many had advanced degrees ranging up to the Ph.D. which presumably had been purchased from "diploma mills."

LOS ANGELES STATE COLLEGE, LOS ANGELES

Dr. Albert D. Graves, Dean, Los Angeles State College, Los Angeles:

Chairman Hegland: You feel that as an individual representing no one that if the State Government did prohibit the issuance of Ph.D. degrees by institutions which do not meet the objective standards of accrediting on the B.A. level that this would not put in jeopardy academic freedom?

Dr. Graves: I do not think it would. As a matter of fact, the standards of accreditation themselves provide for academic freedom and no institution which grants degrees could get accreditation in any regional accrediting association that I know of without providing for academic freedom. As a matter of fact, there have been institutions turned down for not so providing, so I think this is not a danger.

CHURCH FEDERATION OF LOS ANGELES

Rev. Myrus L. Knutson, President, Church Federation of Los Angeles:

The Church Federation of Los Angeles deplores the fact that college and graduate degrees have been sold for profit without any relation to educational achievement.

We are even more deeply grieved with the revelation that ordination to the Christian ministry is being similarly exploited by the sale of certificates of ordination. We emphasize that, whatever the name used in such practices, it will call for nothing but condemnation by all historic church bodies. Most of them set as a usual requirement for ordination graduation from a four-year undergraduate college and from a recognized graduate theological course of at least three years. We prize so highly the sacred obligations of ordination that we hold these to be the minimum educational demand. However, we cannot equate educational preparation and the call of God to an individual to become his minister, and could not approve, consequently, a state regulation in this area.

Assemblyman Winton: As the legal member of this committee, I might point out, and I think Mr. Doyle is familiar with it, that in view of the Constitution of the United States I doubt, even if we wanted to, we could do anything about ordination as a minister. I agree with the witness and I deplore any organization which would sell ordination for profit. However, I do further agree with him that religion (and I think he would agree with me) is a personal thing, and a man who feels the call to carry the gospel, this is something that we shouldn't and cannot, by virtue of the limitations of the Constitution of the United States, get into.

CALIFORNIA INDEPENDENT COLLEGES ASSOCIATION

James E. Ludlum, Legal Counsel, California Independent Colleges Association:

Chairman Hegland: Do you feel that the college presidents of this State were aware, fully aware, before this investigation started, of the abuses in this field?

Mr. Ludlum: I am sure they were not. I mean, I think they had begun to get a feel of it, which is the reason why they came out, as you recall, in the latter part of 1956 and asked you to carry legislation on this subject. But they had no idea of the ramifications which were involved.

Chairman Hegland: Do you feel that members of your association will now, speaking generally of the college and university presidents of this State, will be willing to actually support legislation which is sound and which does not infringe on traditional American academic liberties?

Mr. Ludlum: I don't think there is any question about it. They have spent a good deal of time, and when you get a group of university presidents on this, and especially in preparation for this, you know that they are sincere about it.

POMONA COLLEGE

Dr. E. Wilson Lyon, President, Pomona College, Claremont, California:

Chairman Hegland: Let me ask you this, not particularly as a representative of your institution, but as someone who cherishes the integrity of degrees: Do you personally feel that we would be going astray if we spelled out in the code certain objective standards for the issuance of the B.A. degree, and if we said that there could be no one issued a Ph.D. degree unless these objective standards for the B.A. degree were met?

Dr. Lyon: Well, I think that this could be done. I think that the better way of approaching the problem is to have certain definitions for the establishment of colleges and universities of a certain standard, and, after having set up those standards, we will then leave the institutions relatively free for issuing the degrees.

Chairman Hegland: In other words, you would not approach it directly from the degree point of view, but from the establishment of the institutions themselves?

Dr. Lyon: Yes, that would be my approach, that we have legislation which would guarantee that we have only bona fide colleges and universities operating in the State of California.

COMPTON COLLEGE

Paul Martin, President, Compton College, Compton, California:

In many school districts, elementary, high school and college school districts, junior college school districts, the salary schedule is based on the number of years of experience and on degrees. We have had two instances in which instructors have presented degrees from an unaccredited institution in the hope of advancing themselves on the salary schedule. Neither of these requests were granted. It might interest you to know that one was a request for a doctorate from Fremont College,

when it was located in New Mexico, I think. Yes, in Santa Fe, New Mexico. One other item that I would like to mention to you, there is as you can see very strong incentive for students to take a shortcut if they can purchase a degree or take a degree with much less work.

Compton College interestingly enough has 66 percent of its students in day school who are working their way through school. One in every five has to put in a 40-hour week in order to stay in school. You can see that it would be very discouraging to see friends of theirs drop out and get degrees with some shortcut and very small financial investment. And one very personal sidelight of my professional background —my own training in the field of psychology and in teaching students in psychology over many years, they have come to me with their personal problems.

I am very sad to have to say to you that in many cases, students have fallen into the hands of people who profess to have proper training in psychotherapy, in psychology, or even profess to be psychiatrists and the damage that is done is that where there are cases that might have been helped by proper therapy by properly qualified persons, years of delay and hopelessness have gone on before they ever achieve a contact with somebody who is qualified in the field. Very fortunately, the new legislation will control that in some degree.

UNIVERSITY OF CALIFORNIA

Paul H. Sheats, Director, University Extension, University of California:

I am suggesting, by parallel, that where an avowedly educational agency proposes to offer programs leading toward a formal degree it should expect to meet certain standards established in the Education Code. This kind of control is in the public interest because of the social and economic importance attached to the possession of academic degrees and titles. You are seeking to prevent a devaluation of the currency, so to speak, and I am certain that in this effort you have the full support of my administrative colleagues at the University of California.

WHITTIER COLLEGE

Dr. Paul Smith, President:

Chairman Hegland: Would you give me your appraisal as a private educator responsible for the destinies of a private institution, what are your reactions?

Dr. Smith: My reaction is that the integrity and the consistent improvement of higher education in the State of California is threatened by any areas of instruction in higher education that is not orderly and regularly controlled by the laws of the State.

Chairman Hegland: Do you see any pitfalls or dangers in the paths ahead as we endeavor to correct this situation?

Dr. Smith: No, I do not, making only one exception, I think it is necessary that due caution be taken by legislators in the passing of laws providing for necessary regulation in the direction you have here indicated, so at the same time we may protect academic freedom and

the opportunity for both independent and tax supported institutions that do meet standard requirements of higher education that they shall be able to maintain themselves and provide education without interference.

The State of California has already established for itself an enviable reputation in the field of higher education that is not only statewide or nationwide but is worldwide. I think, therefore, it is of paramount importance that controls be established over the local matter so there shall be a regular orderly procedure for higher education and good education shall not be jeopardized by poor education.

WOODBURY COLLEGE OF LOS ANGELES

R. H. Whitten, President, Woodbury College of Los Angeles:

Correction is most assuredly needed through legislation. It is my opinion that a law should be enacted that will enforce compliance by all colleges of an acceptable academic standard.

The law should define proper academic requirements for issuance of bachelor's, master's, and doctor's degrees, by establishing a minimum number of academic hours for a college credit and a minimum number of credits for the issuance of each degree.

Therefore, a new law should define a minimum requirement of academic hours for one credit in lecture work. Supervised laboratory courses should be defined with a higher minimum.

It is obvious, therefore, that a law can define specifically a minimum number of academic hours for each college credit granted to establish a standard.

The new law should define the educational and moral qualifications of teachers. Our requirements at Woodbury are high, as indicated not only by the degrees held, but by the variety and breadth of their experience, and by the recognition that has come to them in connection with their professional careers. Therefore, any minimum established would certainly be satisfactory to us.

PEPPERDINE COLLEGE

Dr. E. Norvel Young, President, Pepperdine College, Los Angeles:

Well, I believe we are facing a problem somewhat similar to counterfeiting of our money and that it is desirable, of course, to have a Country in which a lot of people would like to be educated and like to have the accoutrements of education, and the people who are selling these degrees are, of course, preying on the unsuspecting in many instances.

Of course, in many instances they are collaborating with the people who are doing what they are knowingly. But the counterfeit always hurts the real currency, and I think the counterfeit hurts the value of the degrees of people who work for them; of the institutions which are qualified to grant them.

Another angle of it, I think, is that it hurts the people who are unsuspecting in that they are deprived of getting real training and education for the tuition that they pay.

APPENDIX

ADDRESS OF GOVERNOR GOODWIN J. KNIGHT BEFORE THE HAYWARD CHAMBER OF COMMERCE AT PLEASANTON ON SEPTEMBER 25, 1957

I am deeply concerned over discoveries which have been brought to light in the investigation of the so-called "diploma mills."

It is a shocking thing to learn that a small group of charlatans are attempting to sell degrees in California. State legislators who are personally investigating these unsavory practices have found that in some cases doctor of divinity degrees are being sold for $2. Holders of such degrees are legally empowered to perform marriages, officiate at funerals and even to solicit funds for nonexistent churches.

It is well known that these "diploma mills" exist throughout the Nation. They will not long continue to exist in California. Our serious students and our children are devoting four to eight years to prepare themselves in our recognized colleges and universities for a future which will benefit them and offer service to the community. They deserve fullest protection for the degrees they receive.

Our public relies heavily upon people possessing degrees in higher learning. The public too deserves protection.

I wish it well understood that the Governor's Office and my administration will co-operate in every way possible in putting an end to the practice of selling bogus degrees.

The interim committee continuing this investigation exists because of legislation introdueed during the 1957 Legislative Session. It was set up for the public good and I urge them to make whatever studies necessary in order that they may put before the Legislature a sound bill to halt the aetivities of the unprincipled persons involved.

STATEMENT OF EDMUND G. BROWN, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

For the past several years, the Office of the Attorney General has receeived numerous complaints from private citizens and other state agencies about what we have come to eall "diploma mills."

These complaints relate to the activities of corporations ineorporated in this State as edueational institutions, which distribute degrees and diplomas either by outright sale or by obviously and totally inadequate requirements. For the past two years, members of my staff have been in the process of conducting a thorough investigation of this type of activity. We have found that the problem is not only statewide in scope, but transcends state lines.

We have found that in the Los Angeles area, where most of these phony schools have their headquarters, there are more than 50 institutions and individuals engaged in this aetivity. They sell uncounted hundreds, possibly even thousands, of degrees and diplomas of all kinds each year.

These degrees range from that of petroleum applicator to doctor of medicine. They include the degrees of B.A., M.A., and Ph.D., doctor of engineering, doctor of osteopathy, all sorts of religious degrees—degrees which purport to show that the holder has undertaken studies and training and passed tests in practically any field you can think of. But instead, the recipients of the degrees have simply paid cash for them, and sometimes written a "test" paper which is automatically graded A plus. This problem attains menacing proportions in the field of the healing arts. Many of the degrees sold by "diploma mills" are in this area—degrees which place in the hands of completely untrained and inexperienced individuals the trappings of legitimate doctors. By utilizing these phony degrees, these individuals hold out to the public the completely false presumption that they have the education, experience and skill equivalent to that possessed by a graduate of a legitimate school of medicine, such as, for example, the University of California or the University of Southern California. Now, it is true that state law requires that an individual holding an M.D. degree also obtain a state license before he can practice. And it is also true that so far, the examining boards have been able to weed out these individuals who attempt to parlay their purchased diplomas into a license. But other states are not so fortunate as California, and we have uncovered cases where those holding phony degrees purchased in Los Angeles have gone to other states and set up in practice. We found one case in which an individual had used a phony degree to obtain employment in a reputable hospital in Los Angeles as a resident, pending receipt of a license. In other cases, these individuals go into the field of psychology, taking money from and attempting to treat the emotionally disturbed. Some of their patients are desperately in need of the most competent psychiatric help. Instead, in some cases we have encountered, women patients have been advised to remove their clothes, to engage in sexual intercourse with the so-called "psychologist," to accompany him to Palm Springs for the weekend, pose for pictures in the nude, and so on.

Other holders of phony degrees are ordained as ministers of the Gospel. They are able to perform marriages, officiate at funerals, take up collections, act as faith healers, etc.

Law enforcement agencies attempting to cope with this problem are handicapped by the fact of the lack of adequate legal provisions in the state codes. At the present time, part of the law is in the Business and Professions Code and part in the Education Code. The sections in the Business and Professions Code are not clear as to their exact scope.

In the Education Code, an arbitrary cutoff date of September 19, 1939, has been placed which exempts corporations chartered before that date even from the very loose provisions governing corporations chartered after that date. This law is so hard to interpret and so unclear as to what constitutes a violation that one law enforcement body has refused to file a criminal complaint on the ground that the sections are so vague as to be unconstitutional.

It will not be easy to draft suitable legislation in this field. We are proud of our academic freedom in California. We cherish the tradition which encourages teachers and professors in legitimate institutions of higher learning to teach, train and conduct research as they see fit. We do not want to infringe on this freedom, nor do we want to move toward state control of private higher education, to any degree whatever.

Nevertheless, from what you will see at these hearings, it will be apparent that: (1) "diploma mills" are a menace to the people of this State and of other states; (2) that the law as it presently stands effectively prevents this or any other law enforcement agency from cleaning up the situation. I most earnestly recommend that this committee after making a thorough check of the menace to the people of the State of California and other states, recommend to the Legislature a series of clarifications in the business and professional and educational codes.

With every consideration for the safeguarding of the academic freedom which we cherish, we must nevertheless clarify the law to the extent of establishing more precise qualifications for the chartering of institutions of higher learning, of making it clear what is allowed, and what is not allowed, in the line of the awarding of degrees and we must afford to law enforcement agencies the code sections they need to clean up this menace to the people of this State.

STATEMENT OF DR. ROY E. SIMPSON, SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE OF CALIFORNIA

I wish to dispel any thought of the committee or of the public that I have any desire to absorb the entire field of education in the State or to disparage any corporation, college or university because it is not a publicly controlled institution. The entire problem of this hearing, of course, is quite complicated and no easy solution exists. There should not be any interference with public and private institutions that are operating under practices which are universally accepted. We of the State Department of Education, as you know, are a public institution, concerned with public education. The Department of Education has received much material, largely in the form of letters of inquiry, indicating that academic degrees are issued without sufficient or any scholastic requirements. The three classes of people injured most by activities of these organizations are:

(1) The general public, not only in California, but in other states and foreign countries, including employers, patients, and other persons who accept these degrees at face value;

(2) Persons with valid degrees who must compete for positions with those having degrees from these corporations; and

(3) Persons who are induced to pay substantial sums of money for degrees which are without academic value.

As educators, however, we have for some time, particularly the last two or three years, been alarmed by the degree-granting activities of certain individuals and corporations in this State who appear not to

diffuse knowledge or intelligence, or at best only an insignificant amount, but nevertheless confer academic degrees. They truthfully state that they are "chartered by the State of California," using this fact to promote their dispensing of degrees. The public is threatened by the situation. The three classes of people being injured most by activities of these organizations are:

(1) The general public, not only in California but in other states and foreign countries, including employers, patients, and other persons who accept these "degrees" at face value.

(2) Persons with valid degrees who must compete for positions with those having degrees from these corporations; and

(3) Persons who are induced to pay substantial sums of money for degrees which are without academic value.

A distinction at this point is important. Anyone should be permitted to impart knowledge and learning. Efficient, effective, experimental, progressive, reactionary, middle-of-the-road, big and little schools, all have their place. With a few exceptions (schools of nursing (Bus. and Prof. Code, Sec. 27798), schools of cosmetology exacting a fee (Bus. and Prof. Code, Sec. 7359), school or college of "cleaning and/or dyeing, spotting or pressing" (Bus. and Prof. Code, Sec. 9540), barber college (Bus. and Prof. Code, Sec. 6527, added by Stats. 1953, Ch. 1299)) anyone may conduct a private school on any subject, and that is as it should be. Not everyone, however, should be permitted to confer degrees. The conferring of academic degrees or the issuance of certificates in the learned professions rests upon a different basis. Academic degrees rest in tradition. Traditionally they represent advanced learning and devoted scholarship including at least a minimum of cultural and "liberal arts" subjects. Traditionally they represent a certain length and depth of learning. The general public relies upon the traditional meaning. Similarly, certificates of completion of diplomas in certain areas such as medicine, dentistry, pharmacy, and civil engineering connote to the public a recognized competence. Because of this traditional and popular connotation, patients, employers, and the general public are misled and injured by a degree or diploma which is not awarded for completion of a substantial course of study and the usual academic requirements.

The Department of Education has received documentary material indicating that corporations purporting to be universities or colleges apparently are issuing degrees without sufficient or any scholastic requirements. This material has been accumulated largely as a result of letters of inquiry from persons whose enrollment appears to have been solicited. The files also contain annual reports filed by certain of these institutions indicating that degrees other than honorary degrees have been awarded without having been earned, our deduction being based upon the shortness of time between the date when the student applied for admission to the school and the date when the degree, frequently a Ph.D. degree, was awarded. Also in our files are catalogues and documents in which certain schools improperly represented that they had authority to grant degrees.

COMPARISON TABLE

Traditional Colleges and Universities

Requirements		*Some private institutions as shown in their publications*
Admission Requirements	(a) Admission limited to students who have graduated in the upper half of their high school classes (about 11 percent of high school graduates qualify for admission to the University of California; about 44 percent qualify for admission to the state colleges) or who achieve a high grade in a standard matriculation examination.	(a) Permit admission of students with very inferior qualifications.
Semester Units of Credit	(b) Require a minimum of 120 semester or 180 quarter units of work (15 units for 8 semesters or 12 quarters). Courses leading to an engineering degree usually require from 128 to 144 semester units or the equivalent in quarter units, thus commonly necessitating a fifth year of attendance.	(b) Require as little as the equivalent of 48 semester units.
Student Load	(c) Permit a student to earn a maximum of 17½ units per semester or the equivalent in units per quarter. Exceptions may be made by a faculty committee if a student is very talented and in good health or if the course is of less than college grade and no credit is awarded toward a degree.	(c) Permit students to carry nearly twice the maximum student load permitted in the traditional colleges.
Class Hours	(d) Require enrollment in 15 class hours (a class hour is a minimum of 50 minutes) per week for 18 weeks for completion of one semester of work or a minimum of 2,160 class hours for the eight semesters of work leading to the degree. Substantially more hours of classroom attendance are required of those students taking laboratory courses. Approximately two hours of additional study are required of those students taking laboratory courses. Approximately two hours of additional study are expected for each hour of classroom attendance.	(d) Require completion of as few as 864 class hours even in engineering.

Reprinted from Los Angeles Times—Friday Morning, October 25, 1957

CURBS PLANNED FOR DIPLOMA MILLS

Bills to Be Drafted

A hearing which developed abundant facts, in spite of the refusal of some witnesses to testify, points to the necessity of California legislation to prevent, so far as is possible, the sale of degrees by phony educational institutions. The hearing was conducted by a subcommittee of the Assembly Interim Committee on Education under the chairmanship of Assemblyman Hegland (D) La Mesa.

The uncommunicative witnesses took refuge in the Fifth Amendment, one of them 22 times, another 24 times. Even such questions as "are you married?" brought a claim of privilege. One was described as "President of Fremont College."

As a result of the hearing, the subcommittee, with the aid of Attorney General Brown, will seek to draft legislation which will make it a felony to sell any degree, diploma or certificate, prohibit the reproduction of the State Seal of California on a phony degree, hunt down through investigators the issuers of such degrees, tighten licensing procedures, and prevent children from being used as victims or subjects of the practitioner of hypnosis, uncertificated nursing and so on.

Bad Name for State

The problem is not an easy one, since the State must be careful not to step on the toes of "academic freedom," reasonably defined, or religious freedom, constitutionally sacred. But the public is entitled to be protected from fakers; people should not be victimized either physically or financially by unqualified practitioners.

The committee was particularly interested in the field of the "healing arts," some of which are not now subject to state regulation.

According to Attorney General Brown, and the evidence adduced at the hearing, there are more than 50 institutions and individuals in Los Angeles alone which "distribute degrees and diplomas either by outright sale or by obviously and totally inadequate requirements."

They do not confine their activities to California; the protection in this State against licensing of improperly educated practitioners, while not adequate, is a restraining force. It has been found, however, that "graduates" of California diploma mills have been taken at face value in some other states where the licensing procedure is less rigorous, so the people of this State are permitting a fraud upon the people of other states.

These individuals and institutions, according to the information adduced, sell uncounted hundreds, if not thousands, of diplomas of all sorts each year. The degrees range from "petroleum applicator" to doctor of medicine; they include the degrees of B.A., M.A. and Ph.D., doctor of engineering, doctor of osteopathy and all sorts of religious degrees.

Religious Freedom

Little can be done, obviously, in the field of religious degrees, since interference with freedom of religion is prohibited. But outright fraud could perhaps fall under censure.

As the Attorney General noted, much of the harm is done in the field of psychology, where persons of absolutely no training have attempted to treat people who are emotionally and perhaps mentally disturbed. At the least these operations are fraudulent.

Part of the legislation on the subject is at present in the Business and Professions Code and part in the Educational Code. In the latter there is an arbitrary cutoff date of Sept. 19, 1939, which exempts institutions chartered before that date from control.

In the opinion of the Attorney General these statutes are so unclear and so hard to interpret that some law-enforcement bodies have refused to attempt to file criminal complaints under them on the ground that the provisions are so vague as to be unconstitutional.

To clarify and tighten up the legislation is the business of the Legislature and obviously it should undertake that duty at the next session. This State can not afford to be under the stigma of appearing to give its approval to frauds who prey upon the uninformed and unsophisticated.

Reprint From San Diego Evening Tribune, Friday, October 18, 1957

STATE MUST ACT VIGOROUSLY TO STAMP OUT DIPLOMA MILLS

Current disclosures by investigators for an Assembly Interim Subcommittee, delegated to root out diploma mills in California, have shocked state officials, educators and clergymen.

Assemblyman Sheridan Hegland (D-La Mesa), chairman of the subcommittee, said that "according to complaints received by our subcommittee, thousands of illicit diplomas are being bought and sold like bottles of gin in prohibition days."

Hegland also said:

"Hundreds of phony degrees are said to carry the official seal of the State of California. Almost every known degree can be purchased.

"If these charges are true, there may be a bootleg market, international in scope, with every type of diploma for sale."

Governor Knight said that he is deeply concerned over the discoveries in the investigation into the diploma mills. He reported that legislators probing the racket have found that in some cases doctor of divinity degrees are being sold.

The Governor said the holders of fake divinity degrees could be performing marriages, officiating at funerals, or soliciting funds for nonexistent churches.

Knight pledged that his office would co-operate to the fullest in putting an end to the mills, and urged the committee to learn if new laws are needed to curb the diploma swindlers.

The full power of publicity and prosecution must be turned upon those found in the investigation to have manufactured or sold phony diplomas, or to have been using them. All evidence unearthed by committee investigators and disclosed in hearings should be turned over to the proper law enforcement agencies.

At the same time, the committeemen must sift with great care all the evidence that comes before them, so bona fide educational institutions and persons with genuine degrees are not caught in the sweep of harmful publicity.

There probably are enough laws on the books to punish the diploma crooks, but if it is found more are needed, the committee should take steps toward their enactment in the Legislature.

Bunco men selling fake degrees to make a fast buck, or using them illicitly to practice a profession, are not new in California. Every now and then law enforcement officers have had to move against the racket.

Preliminary evidence turned up by the committee investigators and information provided by volunteer informants indicate another cleanup is due.

This State cannot tolerate fakers exploiting their phony degrees while serious students devote from four to eight years preparing themselves for degrees in recognized colleges and universities.

The prestige of the genuine degree must be protected by the law.

The public must be safeguarded against fake doctors practicing without proper certificate. The holder of a forged degree must not be allowed to tamper with the bodies and minds of Californians. And the sanctity and dignity of the cloth must be guarded against such un-Christian mountebanks.

Punishment meted out to the diploma crooks should be in proportion to the potential harm they can inflict upon the public.

Reprinted From The San Diego Union—Saturday Morning, October 26, 1957

A TIME TO STOP

Persons reading of the State Assembly subcommittee investigating fake diploma mills might be inclined to laugh at the ridiculous statements made by some witnesses and the mail-order distinctions they give themselves.

Testimony has shown these fly-by-night colleges, more than 50 of them in Southern California, issue degrees in such diverse subjects as medicine, psychology, hypnosis and religion for little money and practically no academic effort.

Witnesses have testified the fake diplomas have been used to delude physically ill and mentally troubled persons with one of the quickie graduates actually practicing medicine in a Los Angeles hospital.

Chairman Hegland (D-La Mesa) and his colleagues are recommending legislation to correct these serious abuses. Testimony shows it is a matter that requires action.

Reprinted From Daily Times-Advocate, Escondido—Monday, October 14, 1957

THEY'RE LATE IN GETTING INTO THE ACT—

One of the more interesting aspects about this so-called "diploma mill" operation which a legislative subcommittee will look into October 21st, is the apparent fact that it has been going on for years and years. Prior to 1939 the laws were full of loopholes. They were tightened in that year, but according to the generalized publicity statements let out in advance of the scheduled meeting diplomas for such degrees as M.A., Ph.D. and even D.D. can be acquired for a few dollars with little or no study required. Principal study needed, it appears, is the effort to find out where one may buy the degrees.

Such a practice raises some rather interesting questions.

For instance, what has the California Department of Education been doing about this, if anything?

The Department of Education makes much of the fact that the salaries given its teachers and administrators are adjusted to some extent on a basis of the degrees they are credited with having.

Question No. 2: Has the Department of Education been "conned" into paying a higher salary to any teacher or administrator holding fake degrees? If so, how come? Would the department pass the buck for that one to the trustees of the district that hired such an individual? Such trustees have to rely pretty much on the ultra-secret personnel reports on individuals under scrutiny or recommended for their consideration by the department.

Question No. 3: Has the Department of Education in any way tried to curb this reputed selling of "fake" degrees so as to try to maintain some standard of educational purity, at least in higher educational circles? If there has been any effort along this line since 1939, when the laws were somewhat tightened, it hasn't made any news stories. For that matter, it would be interesting to know if the Department of Education is assisting in any way in the preliminary gathering of data for the October 21st hearing.

Question No. 4: If this racket has been as extensive as hinted in the rather poorly-worded "publicity releases" and if it has been going on since 1939, wouldn't it be reasonable to assume that the State's Attorney General, Edmund G. Brown, should have gotten into the act a long time ago? Where has he been for the past several years? Or didn't he know it was going on? Or didn't he think it was worth looking into? Or possibly he may not have realized that it's a pretty shabby business.

There's a lot more to this business than meets the eye. It will be interesting to note how various public figures probably will appear to be quite eager now—in 1957—to stamp out an evil that has been in existence for quite a few years right under their noses, if it's as bad as hinted.

NATIONAL HOME STUDY COUNCIL

HOMER KEMPFER, ED. D.
DIRECTOR

EXECUTIVE OFFICES
1420 NEW YORK AVE., N. W.
WASHINGTON 5, D. C.

NATIONAL 8-9134

November 25, 1957

MR. SHERIDAN N. HEGLAND, Chairman
Assembly Committee on Issuance of Degrees
5010 Randlett Street
La Mesa, California

DEAR MR. HEGLAND: We are glad to hear that your Subcommittee on the Issuance of Degrees is investigating malpractices among Southern California schools.

It has been our observation that Southern California has a larger number of diploma mills, unaccredited colleges, and degree-granting institutions of questionable repute than any other section of the United States.

We certainly hope that the Legislature will soon pass effective measures to control the malpractices which reflect adversely on the legitimate correspondence schools.

With very few exceptions, legitimate correspondence schools are not interested in granting degrees. Our American system of higher education does not generally provide for the granting of degrees entirely by correspondence. Such degrees are seldom recognized by reputable academic circles.

Our suggestion is that a state law be enacted prohibiting the granting of academic or professional degrees by any school unless it is accredited by a nationally recognized accrediting association, or unless it meets standards which the State Department of Education may establish and administer.

Sincerely yours,

HOMER KEMPFER
Executive Director

Form 99—10M—2-57

CITY OF LOS ANGELES

RESOLUTION

WHEREAS, hearings on the activities of "Diploma Mills" were recently conducted by a Sub-committee of the Assembly Interim Committee on Education under the chairmanship of Assemblyman Hegland of La Mesa; and

WHEREAS, the hearings have helped to focus public attention on the physical and mental dangers arising from the sale and purchase of degrees; and

WHEREAS, the hearings have brought out many facts that will assist in the enactment of new laws which will correct the evils inherent in the sale of degrees by phoney educational institutions; and

WHEREAS, it is proper that the Council of the City of Los Angeles should recognize the splendid work being done by the Assembly's Sub-committee in gathering information and facts on this problem;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Los Angeles by the adoption of this resolution commends the Sub-committee of the Assembly Interim Committee on Education for its efforts in developing a basis for new laws for the control of "Diploma Mills" and further commends Sheridan N. Hegland, State Assemblyman from La Mesa for the forthright manner in which he has conducted the hearings of the Committee.

Presented by: John S. Gibson, Jr.
Councilman, 15th District

Seconded by: Patrick D. McGee
Councilman, 3rd District

I HEREBY CERTIFY that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held November 12, 1957.

WALTER C. PETERSON, CITY CLERK

By E. F. Schwartzlose
Deputy

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L-1609 12-57 1M printed in CALIFORNIA STATE PRINTING OFFICE

ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959

VOLUME 13 NUMBER 19

REPORT OF THE
SUBCOMMITTEE ON WATER RECLAMATION

A SUBCOMMITTEE OF THE

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 215, 1957

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JOHN L. E. COLLIER, *Chairman*

DON A. ALLEN, SR.
WILLIAM W. HANSEN
SHERIDAN N. HEGLAND
EUGENE G. NISBET

Report Prepared by
CHARLES KUNSMAN, JR.
LEGISLATIVE INTERN

March, 1958

Published by the
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OF THE STATE OF CALIFORNIA

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Speaker

HON. CHARLES J. CONRAD
Speaker pro Tempore

HON. RICHARD H. McCOLLISTER
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HON. WILLIAM A. MUNNELL
Minority Floor Leader

ARTHUR A. OHNIMUS
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Chief Clerk

2—L-2290

LETTER OF TRANSMITTAL
(COMMITTEE)

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION,
PLANNING, AND PUBLIC WORKS
SACRAMENTO, March 24, 1958

Hon. L. H. Lincoln
Speaker of the Assembly
Room 3164, State Capitol
Sacramento, California

DEAR MR. LINCOLN: Enclosed is a report which has been prepared for use as a background study by the Subcommittee on Water Reclamation of the Assembly Interim Committee on Conservation, Planning, and Public Works.

Sincerely yours,

FRANCIS C. LINDSAY

LETTER OF TRANSMITTAL
(SUBCOMMITTEE)

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION,
PLANNING, AND PUBLIC WORKS
SACRAMENTO 14, March 21, 1958

Honorable Francis C. Lindsay, Chairman
Assembly Interim Committee on Conservation,
Planning and Public Works
State Capitol, Sacramento

DEAR FRANCIS: Enclosed is a digest report of available material on water reclamation.

This constitutes, in our opinion, a major contribution in the field of water reclamation which should be invaluable to anyone interested in this facet of the water problems of California.

Sincerely yours,

JOHN L. E. COLLIER, Chairman
Subcommittee on Water Reclamation
DON A. ALLEN, SR.
WM. W. HANSEN
SHERIDAN N. HEGLAND
EUGENE G. NISBET

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3—L-2290

WATER RECLAMATION

By Charles Kunsman, Jr.

Prepared for the

Subcommittee on Water Reclamation of the Assembly Interim Committee on Conservation, Planning, and Public Works

Introduction

This report has been prepared as a background study for the Subcommittee on Water Reclamation of the Assembly Interim Committee on Conservation, Planning, and Public Works. The report summarizes present thinking, literature and research in the important field of water reclamation, with particular emphasis placed on its application to the State of California. A report of this kind is only made possible by the ideas and assistance of many other persons. The main sources for the study are to be found in the bibliography at the end of the report. The following persons generously read an early draft of this report and made many extremely helpful suggestions: Professor Robert C. Merz of the University of Southern California; Professor P. H. McGauhey of the University of California (Berkeley); Benn Martin, Plant Director of the Richmond-Sunset Sewage Treatment Plant of San Francisco; Paul Bonderson and Charles Sweet of the California State Water Pollution Control Board; Edward A. Reinke of the California Department of Public Health; and William L. Berry and Meyer Kramsky of the California Department of Water Resources. The full responsibility for the contents of the study remains, of course, with the author.

Charles Kunsman, Jr.
Sacramento, California
March 3, 1958

Water Reclamation

Water reclaimed from sewage and industrial waste has been used throughout the world for many years. Such use has been primarily for irrigated agriculture, a practice which, in the United States, has been limited largely to the arid or semiarid regions of the Southwest. Although lesser amounts of water have been reclaimed for industrial use, such application is increasing. Reclaimed water has also been used for the creation of artificial lakes and streams for recreation purposes; production of edible fish and waterfowl; artificial replenishment of ground water storage; and operation of sanitary systems. Water reclamation for direct domestic consumption is almost unknown, though recent newspaper articles indicate that Chanute, Kansas, due to a

prolonged drought, was forced to re-use sewage effluent for domestic purposes.

Implicit in a study of waste water reclamation and utilization is the idea that reclaimed water will be eventually of economic value as a water source. The demand for water has been increasing rapidly. Waste water reclamation takes on greatly added significance in areas that have overdrawn their local resources, particularly ground water storage, and are finding it increasingly difficult to secure alternate sources. Much of California serves as a prime example, where continued growth of population, agriculture, and industry have made it necessary to look farther away for additional water supplies.

Increased population in urban areas means both increased demand for water and increasing amounts of waste water. These are concurrent manifestations, which readily suggest that waste water reclamation can supplement the available water supply in such areas.

An advantageous result of a successful program of waste water reclamation is the control of pollution. This close interrelation between the problems of waste water reclamation and the control of pollution should be kept in mind.

The California Situation

Reclamation of waste waters is one of the possible methods considered in connection with plans for meeting the rapidly increasing water requirements of California. If such water can be reclaimed, it can be considered as the equivalent to a new water supply, and thus require that less water be made available by the general plan of transfer of surplus waters from areas of surplus to areas of deficiency. The success of any plan for reclaiming water is contingent upon being able to develop an adequate supply of water of suitable quality for intended uses at a cost competitive with alternate sources of supplemental water supplies, and upon the willingness of water users to accept such a supply.

It was estimated that during the 1956-1957 Fiscal Year, about 950,000 acre-feet of waste water were discharged to tidal waters in California. This water is considered lost, as it is unusable after losing its identity in saline water. About 40 percent of this waste water was so highly mineralized that reclamation, at present, would be prohibitively expensive. However, organic matter could be removed from all of this water by conventional treatment processes at reasonable cost, making the other 60 percent available for re-use. The condition of the highly mineralized waste water is largely due to the presence of industrial waste. The volume of this water could be lessened to a considerable degree through adequate control over waste dischargers.

During the same fiscal year, it was estimated that 600,000 acre-feet of waste water were discharged to inland streams, or disposed of by application to the land. Much of this water was used directly through irrigation, and indirectly by further use of water from the streams and ground water basins into which the waste waters had been discharged.

The total amount of waste water in the State has been estimated to be about 2.2 percent of the State's total natural surface runoff. However, this amount of water can take on much greater significance when viewed in other, more meaningful terms. The amount of waste water is

equivalent to 7.5 percent of the State's water from developed supplies. The volume of waste water represents over 40 percent of the total potable water use. The total waste water from domestic sewage is also equal to about 40 percent of our present annual overdraft on ground water basins in California. However, the cost of transporting reclaimed water to the areas of ground water overdraft would in many cases make such a project economically unfeasible.

When one considers the quantity and distribution of available water with respect to the population concentrations in California, the advantages of water reclamation become increasingly obvious. In the Southern California area, the lowering levels of ground water, consequent sea water intrusion, and the general water shortage may easily make the multiple usuage of water a necessity.

Certainly the quantities of waste waters that are available are sufficiently great to warrant their consideration as a water resource.

The Feasibility of Water Reclamation in Southern California [1]

The greatest volumes of sewage in California are produced in the large metropolitan areas along the coast. Less than 2 percent of the sewage discharged through ocean outfalls is now reclaimed for beneficial use. Therefore, the greatest opportunity for water reclamation exists in the coastal areas and particularly in the Los Angeles metropolitan area.

In the Los Angeles area, liquid wastes discharged into stream channels or onto the surface of the ground are generally conserved by deep penetration to a ground water body. Therefore, the only appreciable quantities of waste waters available for additional reclamation are in the large sewerage systems discharging to the Pacific Ocean or its tidal waters. The main discharges, with acre-feet of outfall for the 1956-1957 Fiscal Year are as follows: City of Los Angeles-Hyperion (302,494), City of Los Angeles-Terminal Island (6,777), Los Angeles County Sanitation Districts-Whites Point (214,576), and Orange County Sanitation Districts (38,176).[2]

To say that the total volume of waste discharges is available for reclamation is an overstatement. The greatest single factor limiting the quantity of waste water available for reclamation is the mineral quality, or concentration of dissolved salts. *All* uses of water increase the mineral concentration of dissolved salts in the resulting waste water, though industrial wastes are much more likely to destroy the mineral quality of water than are normal domestic uses. This becomes a particular problem in the parts of Los Angeles where the source water already has a high content of mineral salts. Occasionally a single user of water will push the amount of mineral concentration over the allowable limits for agricultural and domestic purposes, as well as most industrial uses.

[1] See especially Statement Submitted by Department of Water Resources Concerning Feasibility of Sewage Reclamation as a Source of Water Supply for Southern California to Atomic Energy Subcommittee of the Assembly Committee on Conservation, Planning, and Public Works: Los Angeles, California, November 14, 1957.

[2] Ibid., p. 4.

The possibility of converting or demineralizing brackish or saline waters has been under extensive study by the United States Department of the Interior and the University of California. Thirteen different processes are now under study at the university. It has been estimated that by using a multiple effect centrifugal evaporator, fresh water could be obtained from saline water at a cost of between $80 and $160 per acre-foot. The present estimation for Feather River water delivered in Los Angeles is $65 per acre-foot, while Colorado River water cost approximately $45 per acre-foot during the last fiscal year. In plants actually converting saline water into fresh water, the present cost is from 7 to 13 times the cost of alternative California supplies. At the present time consideration of water reclamation is therefore limited to waste waters with low concentrations of dissolved salts.

In the Los Angeles metropolitan area, potential industrial markets for reclaimed water are available and are generally increasing. With continued urbanization, agricultural markets for waste water are rapidly shrinking, and extensive installations for agricultural use of reclaimed water could not be justified. Recreational uses for waste water provide an excellent use, but these requirements are not very significant in the total Southern California water picture. The use of reclaimed water for spreading purposes, in order to recharge ground water, and to repel sea water intrusion appears to hold the greatest promise for this area.

Surveys were made in 1955 to determine the mineral quality of sewage flows for possible reclamation. With one exception, the sewage in the major trunks of the City of Los Angeles-Hyperion System was suitable for reclamation. Most of the flow from the county sanitation districts of Los Angeles and Orange Counties was found unsatisfactory, though some upstream trunks were sampled and found satisfactory. For long-range water reclamation projects, it is very difficult to predict the future quality in terms of mineral concentration. Existing conditions of quality serve only as a general guide to the future. Some depreciation of the quality of these waste waters is to be expected.

Nine possible reclamation projects for the Los Angeles metropolitan area have been studied.[3] These include industrial, refinery, agricultural, and recreational uses, the recharging of ground water, and repelling of sea water intrusion. The total yield of these projects would be about 242,000 acre-feet per year at an average cost of $16.10 per acre-foot (1955 prices). These cost estimates include the reclamation plant, the conduits needed to convey the water, and the costs of actual reclamation and the transporting of the water to the areas of use. These quantities are considered to be the maximum reclaimable under present conditions.

Industrial Uses of Reclaimed Water

The industrial requirement for reclaimed waste water is a constant one. Since waste water is generally available on a continuous basis, it is usually possible for an industry to arrange a mutually satisfactory contract with a municipality for supplying uniform quantities of reclaimed waste water. This has been the case at the Bethlehem Steel Plant in Baltimore and the Cosden Refinery at Big Spring, Texas.

[3] Ibid., pp. 16-18.

Industry often has to treat the water that is supplied to it, even if the water is potable. Therefore there is no reason why much of industry's water needs should not be reclaimed waste water.

The need of industrial plants for continuous supplies of process water is in contrast to agricultural uses, where the use of reclaimed water is influenced by weather conditions and crop requirements. The quality needs of industry are different from agricultural needs. Usually there are no aesthetic considerations. Health hazards are virtually eliminated in industrial re-use and a high mineral content water may be used in many instances. In other cases industries have quite stringent requirements as far as mineral content is concerned.

It is also quite common for industry to reclaim its own waters. The advantages of this procedure are: (1) eliminating water pollution caused by industrial wastes, (2) in arid regions, the available water supply is increased, and (3) water is conserved for other uses.

COOLING WATER USE

Waste water can often be used in cooling towers, where evaporation of 1 percent of the circulating water will normally lower the temperature 10 degrees F. Reclaimed waste water has been successfully used for cooling tower water at many locations. The organic matter present in an effluent presents no important difficulty. However, the amount of dissolved solids must be low to prevent scaling, and wood destruction in the towers must be prevented.

At Los Alamos, New Mexico, the entire cooling water for the power plant is made up from reclaimed effluent. No operating difficulties have been reported. For many years, the only satisfactory available water source for the Cosden Refinery at Big Spring, Texas, was the sewage effluent from the city.[4] The refinery used this source from July, 1944, until the recent importation of Colorado River water and no aesthetic or operational problems occurred. The Texas Company Refinery has arranged to purchase the sewage effluent of the City of Amarillo, which will be used as water for cooling towers.

The Bethlehem Steel Sparrow's Point Plant in Maryland utilizes reclaimed waste water supplied by the City of Baltimore's two sewage treatment plants.[5] It is used in the plant process for cooling tower makeup, for cooling rolling equipment, for quenching coke, and descaling. The quality of the sewage effluent is better than any other water available to the company. So satisfactory has the use of this effluent proven, that the consumption has steadily increased since its original use in 1942. Periodic health department checks have found the bacterial quality of the reclaimed water satisfactory. There have been no odors, flies, mosquitoes or aesthetic problems reported. The Geneva Works of the Columbia-Geneva Steel Division of the U. S. Steel Corporation at Provo, Utah, has a carefully planned and economically operated waste water reclamation system.

At Grand Canyon National Park, the effluent from an activated sludge type treatment plant is chlorinated and used for nonpotable sanitary purposes, and for boiler feed makeup and cooling water in the power plant.

[4] See E. B. McCormick and O. K. Wetzel, Jr. "Water Supply From Sewage Effluent," Petroleum Refiner 33 (November, 1954) pp. 165-7.
[5] C. E. Keefer "Bethlehem Makes Steel With Sewage," Wastes Engineering 27 (July, 1956), pp. 310-3.

The steam power generating plant of the Southern Nevada Power Company, Las Vegas, uses effluent from the treatment plant of the Clark County Sanitation District.[6] This sewage effluent has been used for cooling tower water since February, 1957. The Las Vegas water supply is limited and the area water requirements are rapidly increasing. The sewage effluent was the most economical water source available to the company. There have been no odor nuisances or operating problems connected with this reclamation program.

BOILER FEED USE

The use of reclaimed waste water for boiler feed is small. Organic waste waters generally must be softened and demineralized before they can be used. This was done satisfactorily at the Cosden Refinery where sewage effluent from the City of Big Spring, Texas, was used in the boilers of the refinery.

FIRE PROTECTION

Reclaimed waste water can often be used as a standby water supply, so an industry can comply with fire insurance company requirements.

INDUSTRIAL REUSE OF WASTE WATERS

The mining, sugar beet, steel, and paper industries are among those currently re-using process waters. The paper industry re-uses large quantities of process water. As a result, water conservation is practiced and stream pollution is avoided. Lever Brothers soap plant in Los Angeles makes extensive use of reclaimed industrial waste effluent. The Kennecott Copper Corporation employs large scale utilization of reclaimed process water at its large ore separation and refining unit at Hurley, New Mexico. The Round Mountain Placer Mine in Nevada employs hydraulic sedimentation for segregation of gold. All waste waters are reclaimed and recirculated in the plant process.

The Kaiser Steel Company at Fontana, California, has one of the most elaborate and complete water reclamation systems in the country.[7] In this plant, reclaimed sanitary and industrial waste waters are re-used about 40 times. The only loss is from evaporation, with no significant runoff from the plant. If waste water reclamation was not practiced in this plant, approximately 130,000,000 gallons per day would be required instead of the 3,000,000 gallons per day now used. No difficulties caused by odors or insects have been reported. In an arid region where water is both limited and valuable, the Kaiser plant is a model demonstration of the rational use of water reclamation. The problem of water pollution has been completely eliminated. Without this reclamation system, it is doubtful that the plant could exist in its present location.

Agricultural Uses of Reclaimed Water

The community benefits in various ways when sewage effluents and industrial wastes are used for agricultural purposes. Among these benefits are: (1) elimination of stream pollution, (2) conservation of water and (3) providing agricultural nutrients for the land.

[6] Sanitary Engineering Laboratory. Report on Continued Study of Waste Water Reclamation and Utilization. (1957), pp. 4-7.
[7] Ibid., pp. 7-9.

One difficulty in using sewage effluent for agriculture is the intermittent demand. Both climate and crop needs have an important effect on the demand. An alternate method of disposal is usually required. Reservoirs for the storage of effluent, such as the one at Bakersfield, California, are one possible solution to the problem of fluctuating demand.

Available land, and appropriate climate are the two primary factors in the land disposal of waste waters. The land must be close enough to the source to permit the desired operation (the maximum is usually thought to be 20 miles), and there must be suitable topography and soil conditions. In England, the combination of high rainfall and concentration of population with high land values has brought about the abandonment of sewage farming.

In all locations in the United States, some form of pretreatment takes place before sewage is used in farming. The simplest are lagoons used at several locations in Texas. The advantages of pretreatment are: (1) removal of settleable material eliminates many pathogenic organisms, seeds and unsightly material, (2) there is less material to form sludge deposits in distribution systems and fields, (3) flies, odors and other nuisances are controlled, and (4) pretreatment may make possible alternate methods of disposal.[8] Further treatment of sewage by a secondary-type treatment process offers the advantage of a high quality effluent suitable for alternate disposal to a stream, but some farmers who use this type say it has less fertilizing value than effluent given only primary treatment.

Toxic industrial wastes can sometimes be used for preirrigation, even if they cannot be used after the crop is planted. This is done at the Exchange Orange Products Company Farm in Ontario, California.

The crops that may be grown by irrigation with sewage or industrial waste effluents are restricted by the quality of the effluent, the amount of waste water to be disposed of, and health regulations concerning use of sewage or sewage effluent on crops. In general, in the United States, crops that are customarily consumed in a raw state may not be irrigated with sewage of any character. Primary or undisinfected sewage effluents are usually allowed for field crops, cotton, sugar beets, or vegetables for seed production. In various foreign countries, sewage is used for growing vegetables, but is customarily not used during the growing season. Crops raised in California using waste waters include, in decreasing order of acreage devoted to them, (1) grasses (Bermuda, Sudan, Egyptian) and alfalfa; (2) various grains such as barley, wheat, rice, field corn and ryes; (3) fruit: oranges, apples, lemons, pears, plums, peaches, grapes and walnuts, and (4) field crops: cotton and sugar beets.[9] Beef cattle, hogs, horses and sheep are raised in the pasture area of the sewage farms.

Grazing for beef cattle is one of the more widely used methods of utilizing sewage effluents. A ranch operator using San Antonio, Texas, sewage effluent stated that his ranch will support two to six cows per acre compared with one cow per 30 acres on local nonirrigated land.

[8] California State Water Pollution Control Board, A Survey of Direct Utilization of Waste Waters (1955), p. 36.

[9] California State Water Pollution Control Board, Studies of Waste Water Reclamation and Utilization (1954), p. 53.

At the Melbourne, Australia, sewage farm, as many as 70,000 sheep and 10,000 cattle are supported on 25,000 acres.

The mineral content of the effluent is important in its agricultural uses. Deleterious effects on crops and ground waters may occur as a result of using certain types of industrial and domestic wastes.

HEALTH CONSIDERATIONS

Regulations governing the use of sewage for irrigating crops are included in the California Administrative Code.[10] The use of raw sewage is not permitted and crops are restricted when irrigation is with settled or undisinfected sewage. Properly treated, disinfected sewage meeting bacterial standards equivalent to drinking water standards may be used for all crops. California farms using primary sewage effluents are usually limited to the growing of forage and specialized crops. Dry milch cows and beef cattle are pastured on these farms. Cysticercus Bovis (Beef Measles) is possible when beef eat sewage effluent. This occurred at the Melbourne farm in 1933.

SEWAGE FARMS

Sewage farming dates back to the Nineteenth Century with the early development of water borne collecting systems. Melbourne, Berlin, and Paris operate sewage farms today where sewage is disposed of with little or no pretreatment. Most sewage farms today are agricultural enterprises that utilize treated effluent for the production of crops and the raising of animals.

Sewage farming is most common in areas of low annual rainfall, where there is a need for additional water. In the United States, sewage farming is limited to the semiarid areas of the west, though reclaimed industrial wastes are used for irrigation in many parts of the Country. One advantage of sewage farming is that the nutrients in this water often give an increased yield per acre over other nearby lands. Among the sewage farms in California are those located in Bakersfield, Fresno, Lodi, Ontario, Pomona, and Santa Maria.

Special methods of preparing the land for disposing of sewage are often necessary. The percolation ability of the soil is a key factor. Subsurface drains and deep plowing are often necessary. Preparation of the land presents greater problems when raw sewage is used than when either primary or secondary effluent is used.

FRESNO CITY SEWAGE FARM

This sewage farm utilizes the effluent from a primary treatment plant for the production of crops and beef. It also helps recharge ground waters by filtration through the soil. Deep plowing to break up the plow pan and increase the permeability of the soil has been necessary.

MELBOURNE, AUSTRALIA

Melbourne is located in an area of low annual rainfall. Its sewage farm has been in operation since 1892.[11] The farm is located 24 miles from the city, 16 of which is a gravity line. No pretreatment is made

[10] California Administrative Code, Title 17, Public Health, Sections 7897-7901.

[11] See Charles Gilman Hyde "Sewage Reclamation at Melbourne, Australia," Sewage and Industrial Wastes 22 (August, 1950), pp. 1013-5.

before the sewage is spread on the land. Land preparation includes laying out the drainage system according to the surface levels and nature of the soil, breaking up the subsoil to a depth of 24 inches with a special plow, and cultivating the top soil. Surface flooding is the irrigation technique used here. To avoid ponding, it is necessary to use irrigation methods that will allow the organic material to dry out quickly. This is done by spreading the effluent evenly on the soil. On the average, 40 inches per year are applied.

EXCHANGE ORANGE PRODUCTS FARM, ONTARIO, CALIFORNIA

At this farm, about 60 acres of land are treated with citrus product waste water for a three or four-month period. A special system of furrows with checks and back furrows is used to increase the rate of infiltration. Once the crops are planted, the use of waste water is discontinued.

ONTARIO, CALIFORNIA

The cities of Upland and Ontario, California, operate a 230-acre sewage farm near that of the Exchange Orange Products Company. About 200 inches of secondary effluent are applied to this farm each year from the sewage treatment plant of these cities. Flooding, furrows, and sprinkling are all used. Sandy soil and high percolation rates account for the large amount of water that is spread. It is estimated that eight feet, or more, of water are percolated each year to the underground.

SEABROOK FARMS, BRIDGETOWN, NEW JERSEY

In the agricultural utilization of industrial waste waters from food processing plants, much use has been made of sprinkler systems for irrigation. At the Seabrook Farms, vegetable processing waste water is now used for most of the 3,700 acres under irrigation.[12] Overhead sprinklers in the woodland tract apply from 500 to 1,200 inches per year. This suggests that forest lands may become a satisfactory alternate for the use of sewage effluent.

A. PERELLI-MINETTI WINERY, DELANO, CALIFORNIA

The Perelli-Minetti winery utilizes its industrial waste water by irrigating the agricultural land around the winery.[13] The winery wastes consist of stillage and pomace, as well as wash water and waste cooling water. The waste water is diluted with 10 parts well water for one part waste, and then is used to irrigate 610 acres of land. The crops which are grown with this irrigation water are reported to be satisfactory. The necessity of extensive treatment of the winery waste is avoided, and at the same time needed fertilizer and organic matter are supplied to the soil.

[12] See R. A. Webster "Sewage Effluent Disposal Through Crop Irrigation Discussion," Sewage and Industrial Wastes 26 (February, 1954), pp. 133-5.

[13] California State Water Pollution Control Board Report on Continued Study of Waste Water Reclamation and Utilization (1956), p. 22.

BAKERSFIELD, CALIFORNIA

A 2,000-acre farm owned by the City of Bakersfield is supplied with primary effluent.[14] Irrigation with this effluent is reported to produce a greater growth of crops than does comparable irrigation with well water. Corn, cotton, alfalfa, sorghum, and grass are among the crops grown. The Mt. Vernon Sanitation District, adjacent to Bakersfield, irrigates about 1,000 acres with its sewage effluent. Wheat, cotton, and milo maize are grown, and 200 head of cattle are grazed there.

TALBERT WATER DISTRICT, ORANGE COUNTY, CALIFORNIA

Preliminary studies of the use of Orange County sewage effluent were conducted in 1950 and 1953. In 1950, a satisfactory crop of lima beans was grown, and in 1953, a good crop of barley was harvested. In 1954, a 20-year agreement was drawn up between the county sanitation districts of Orange County and three major land holders of the area, representing 2,250 acres of land. The Talbert Water District now supplies these acres with sewage effluent for irrigation. The final irrigation facility was completed late in 1956, and the first harvest of crops (alfalfa, beans, peppers) was due in 1957.[15]

OCEANSIDE, CALIFORNIA

An evaluation has been made of the feasibility of reclaiming sewage from the City of Oceanside.[16] A report prepared by consultants engaged by the city indicated it would cost more money to pump the primary effluent into oxidation ponds and thereafter employ the effluent from the oxidation ponds for agricultural, industrial, or recharge use, or even for possible irrigation of a golf course, than it would to discharge the settled sewage into the Pacific Ocean. However, considering the value of the reclaimed water as a potential additional water supply, it was recommended that the reclamation program be undertaken. The proposed system was submitted to the voters at a special election in June, 1957, and was approved by more than the necessary two-thirds majority.

Recreational Uses of Reclaimed Water

In addition to the irrigation of parks, golf courses and baseball diamonds, recreational uses of waste water include the supplying of decorative lakes for boating, fishing, and wildlife refuges. Such projects located throughout the southwestern United States indicate that these uses of waste effluents can be both sanitary and economical. Recreational usage may eliminate the necessity for discharge of sewage into restricted bodies of water where detrimental pollution might occur.

Utilization of waste waters for irrigation of parks and other recreational projects results in the increase of the total available water supply. The mineral and organic quality characteristics of a waste water are not always as critical for recreational irrigation as for general agricultural irrigation.

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[14] Ibid., pp. 25-6.
[15] See Sanitary Engineering Research Laboratory Report on Continued Study of Waste Water Reclamation and Utilization. (1957), pp. 9-24.
[16] Ibid., p. 24.

The beneficial fertilizer elements present in reclaimed effluent are an important favorable consideration in park irrigation. Park and golf course operators have reported that reclaimed water is superior to the alternate potable waters for the growth and maintenance of vegetation.

The use of reclaimed water for recreational purposes apparently began in 1932, at Golden Gate Park in San Francisco. Since World War II, such water has been increasingly used for maintaining golf courses in California, Nevada, Arizona and New Mexico. The use of treated sewage for irrigating parks and golf courses appears to hold considerable promise.

GOLF COURSES

One of the commonest recreational uses for sewage effluent is the watering of golf courses.[17] Among those presently using effluent are courses located at the El Toro Marine Air Base, the Camp Pendelton Marine Base, the Nebo Marine Supply Depot (Barstow), the China Lake Naval Ordinance Test Station, the Cities of Los Alamos, Carlsbad, Jal and Santa Fe in New Mexico, the course of the Desert Inn Hotel in Las Vegas and the Flying Hills golf course in El Cajon, California.

The advantages of using reclaimed water for golf courses are: (1) benefit to the grasses from the extra fertilizer values of the effluent, (2) more valuable water supplies may be reserved for higher uses, (3) the cost of effluent may be less than other water resources, (4) with community expansion, the quantity of effluent available also expands, and (5) full use is provided for imported waters.

GOLDEN GATE PARK, SAN FRANCISCO

The Golden Gate Park water reclamation plant was constructed as a WPA project in 1932.[18] It is the only plant that was designed specifically as a water reclamation plant. It was orginally planned that the reclaimed water would be used to replenish the existing decorative lakes in the park area. The satisfactory effluent produced is now also used to irrigate approximately one-third of the park area (400 acres). No difficulties have arisen over this use of waste water. The park is an outstanding example of a well-engineered, well-operated, economical waste water reclamation project.

OTHER RECREATIONAL USES

At the University of Florida at Gainesville, reclaimed water is used for the irrigation of lawns and shrubbery. The Twentynine Palms Marine Air Base uses reclaimed water for flushing toilets, irrigation of grass and shrubs, and watering several baseball fields. The Lucky Lager Brewery in Azusa, California, uses secondary effluent for irrigation of 13 acres of plant property. For many years the Hyperion treatment plant of the City of Los Angeles used secondary effluent for irrigation of grass, flowers, shrubs, and ground covers on 35 acres of plant area.

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[17] See California State Water Pollution Control Board. A Survey of Direct Utilization of Waste Waters, (1955), pp. 54-7.

[18] Benn Martin, "Sewage Reclamation at Golden Gate Park," Sewage and Industrial Wastes 23 (March, 1951), p. 319.

Fish ponds, fed by primary effluent are found in many places in Europe, Asia and the United States. Effluents are utilized in North Dakota and Texas to develop wildlife and primitive area parks.

Use of Reclaimed Water for Recharge

Recharge is used in several different ways. Recently, planned recharge has been employed for the prevention of intrusion of salt water. That is, fresh water is introduced to form a barrier that will prevent the entrance of saline waters into an overdrawn fresh water basin adjacent to an ocean. A second type of recharge of fresh water is in effect in Los Angeles and Orange Counties, California, where replenishment of existing water aquifers has been undertaken. Recharge of these underground waters with reclaimed effluents is under serious consideration. Planned conservation of cooling water is a third recent development. There are numerous large cooling water systems which operate on a once-through basis. Water is taken from the ground and used for cooling in heat exchangers and then returned to the ground. A fourth use of recharge that has become of great importance is the repressurizing of oil bearing strata. Much research has been done by oil companies and other interested organizations to develop oil flooding techniques so that maximum utilization of oil bearing strata takes place.

When the percolation phenomenon is used to recharge underground waters, a study of certain factors is necessary. The physical properties of the soil, and the composition of the water, have an important effect on percolation. Study is also necessary to find whether the percolation of waste water could contaminate or pollute the underground water supply.

RECHARGE OF UNDERGROUND AQUIFERS

In the past the recharge of underground aquifers with sewage effluents and industrial waste effluents has generally not been a planned undertaking. However, the necessity for maintaining high ground water levels has become increasingly evident. This has been a particular problem in the Los Angeles area, where the lowering of the ground water levels have resulted in the threat, and in some cases the actuality of sea water intrusion.

In Orange County, the Metropolitan Water District has spread Colorado River waters extensively to recharge the Santa Ana River basin. The Los Angeles County Flood Control District also has a program of recharge from spreading basins. The effluent from the county sanitation district's sewage treatment plant at Azusa, California, has been used for over 12 years to replenish the underground basin.[19] No significant pollution of the ground water has so far resulted. It was reported in 1954 that 112 sewage treatment plants in the State of California recharged underground waters incidentally to normal plant operation.

[19] R. C. Merz "Direct Utilization of Waste Waters," Water and Sewage Works 103 (September, 1956), p. 423.

FRESH WATER BARRIER

The Los Angeles County Flood Control District has a test program to determine the feasibility of using a fresh water barrier to prevent salt water intrusion. A system of injection and sampling wells were developed near Manhattan Beach. The ultimate plan called for an 11-mile fresh water barrier along the Santa Monica Bay coast line to prevent the intrusion of saline ocean water. Imported Colorado River water has so far been used for this barrier. Tests have been conducted since 1955 to determine the practicability and economic feasibility of reclaiming sewage effluent from the Hyperion treatment plant to supply and maintain the barrier. These tests are continuing and have shown that water suitable for injection through a recharge well can be obtained from reclamation of a high-rate activated sludge effluent.[20]

RECHARGE OF OIL BEARING STRATA

Brine wastes from oil fields are a major problem in the petroleum industry. These brines can pollute both ground and surface water supplies. In the 1920's it was found that disposal of brine wastes could be accomplished by using injection wells. This could, in turn, serve to repressure the oil strata and increase oil field yields. The Carter Oil Company at Mattoon, Illinois, is not only disposing of its own process wastes, but is purchasing effluent from the municipal sewage plant, for injection into their wells. Extensive subsurface injection of waters, both brines and fresh, is reported in Oklahoma, Kansas and Texas. California has a large number of injection wells, many of which are found in inland fields where ocean disposal is not available.[21]

The Economics of Reclaimed Water Utilization [22]

From economic studies in progress at the University of California at Berkeley, it has been tentatively concluded that when the cost of treating sewage to the degree demanded by public health and water pollution is charged to such considerations, reclaimed sewage effluent can in many cases be profitably used for irrigation and by industry in competition with water selling for $6 to $24 per acre-foot. In the more arid areas reclaimed water may be economical even if all treatment costs are charged against the value of the water.

AGRICULTURAL USE

The growth of large cities has resulted in increasing the valuation of the lands surrounding the municipalities. This high cost of nearby land, combined with the cost of pumping effluent over long distances, reduces the agricultural reuse of reclaimed water. However, where sewage farms have been developed carefully as in the San Joaquin Valley, the cost of operation is nominal. Effluent is available at a price ranging from nothing to $7.50 per acre-foot, while alternate irrigation water would cost as much as $20 per acre-foot. Similar price differentials exist in the sale of sewage effluent in Pomona, California.

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[20] H. A. Van der Goot, "Water Reclamation Experiments at Hyperion," Sewage and Industrial Wastes 29, (October, 1957), p. 1144.

[21] See Hubert C. Ferry, Disposal of Wastes From California Oil Fields, Paper presented at meeting of the American Petroleum Institute, Los Angeles, April 28, 1955. 12pp.

[22] See especially P. H. McGauhey, "Economic Worth of Reclaimed Water," in Proceedings, Conference on Water Reclamation, University of California, Berkeley (1956), pp. 68-75 and California State Water Pollution Control Board. A Survey of Direct Utilization of Waste Waters, (1955), Chapter VI.

INDUSTRIAL USE

Where no other water is available, it is necessary for an industry to reclaim water in order to continue operation. This is true in certain arid sections of the southwestern United States. There are also examples where industry finds reclaimed water cheaper and more satisfactory than any alternate source. Comparison between reclaimed water costs of from $0.31 to $120 per acre-foot, and alternate sources of potable water costing from $10 to $650 per acre-foot, are made in the accompanying table.

RECREATIONAL USE

The economics of recreation are such that it would be impossible in many cases to have golf courses or park areas without the availability of large quantities of low cost, reclaimed water.

RECHARGE

The necessity for a fresh water barrier to prevent the intrusion of saline waters from the ocean into depleted underground basins has resulted in the need for a low cost water to maintain the barrier. To date, the use of effluent for this purpose has not been great enough to permit the development of comparative costs.

THE ECONOMICS OF RECLAIMED WATER UTILIZATION[23]

Location	*Use*	*Cost of waste water used per acre-foot*	*Cost of alternate water supply per acre-foot*
Golden Gate Park, San Francisco	Lawn and shrub irrigation, decorative lakes	$23	$70
Grand Canyon, Arizona	Lawn irrigation, sanitation, power plant cooling	120	650
Los Alamos, New Mexico	Irrigation, golf course, power plant cooling	24	92
Las Vegas, Nevada	Golf course	27	32
Big Spring, Texas	Refinery boiler feed	16	57
Baltimore, Maryland	Steel plant cooling	4	33
Amarillo, Texas	Refinery cooling	14	45
San Bernardino, California	Agricultural irrigation	0.31	10

[23] Adapted from tables in California State Water Pollution Control Board. A Survey of Direct Utilization of Waste Waters, p. 66; and P. H. McGauhey, "The Why and How of Sewage Reclamation," Water and Sewage Works 104 (June, 1957), pp. 266-7.

Conclusions and Recommendations

1. Section 230 of the Water Code places within the Department of Water Resources the responsibility for investigating and reporting (to the Legislature and appropriate regional water pollution control boards) upon the feasibility of reclaiming water from sewage or industrial wastes. This legislation has enabled the department to make studies which satisfactorily point out those locations where reclamation is practiced and those where it would be feasible to develop waste reclamation programs. It is felt, therefore, that existing legislation regarding waste water reclamation studies is adequate, and no changes are recommended.

2. The Department of Water Resources is engaged in fulfilling its responsibilities for this function. In addition, the State Water Pollution Control Board, both on its own responsibility and in cooperation with the Department of Water Resources, has sponsored extensive research in this field. Numerous local agencies, such as the Los Angeles County Flood Control District, sanitation districts, and water conservation districts have engaged in research activities and investigation of feasibility of sewage reclamation for their areas of responsibility.

Appendix

STATEMENT OF DIRECTOR OF CALIFORNIA DEPARTMENT OF WATER RESOURCES, ON WATER RECLAMATION [24]

I am often asked how sewage reclamation fits into the solution of our water supply problems. It is quite true that large volumes of sewage are now wasted to the ocean. However, it must be remembered that most of this sewage occurs in the metropolitan areas of San Francisco Bay, Los Angeles and Orange Counties, and San Diego; in other areas of the State the sewage of inland cities is, to a large extent, now effectively reclaimed and utilized. Unfortunately, in many cases, the sewerage system (sic) of our metropolitan areas have not been designed and constructed with the possibility of reclamation in mind and in many instances now carry industrial wastes which prohibits (sic) economic reclamation projects. The treatment plants are located at or close to tidewater. Water reclaimed from sewage can be utilized for three principal purposes; namely, irrigation, ground water replenishment, and for industrial uses, which do not require of potable quality. There is comparatively little irrigated agriculture left in or near the metropolitan areas and the little remaining is rapidly diminishing. Coastal ground water basins, by their geological structure, are generally not adaptable to surface spreading for replenishment, but rather injection wells must be used, an expensive process requiring a high degree of prior treatment. To utilize reclaimed water for industrial purposes would, in most instances, require a separate distribution system since these plants are rather widely dispersed. A complicating factor is that the mineral quality of sewage is deteriorating due to increasing industrialization. In the future reclamation of water from sewage should be undertaken wherever feasible; however, at the present time it is not widely practiced in the major metropolitan areas principally because it is not economically competitive with other sources of supply. It will become increasingly significant in the future but it is believed that sewage reclamation will not be a *major factor* in the future water supply picture because of the geographic location of the occurrence of large volumes of sewage, quality problems, and the inherent limitations on the use of reclaimed water.

[24] From Facts of California Water Development, Address of Harvey O. Banks, Director of Water Resources Before League of California Cities, San Francisco, September 25, 1957. pp. 6-7.

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printed in CALIFORNIA STATE PRINTING OFFICE

L-2290 3-58 1,500

ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959

VOLUME 13 NUMBER 20

THIRD REPORT OF THE

SUBCOMMITTEE ON IMPACT OF ENEMY ATTACK ON ECONOMY AND CONSTITUTIONAL GOVERNMENT OF THE STATE OF CALIFORNIA

A SUBCOMMITTEE OF THE

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 53, 1956

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Sacramento, California

May, 1958

Published by the
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LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
CONSERVATION, PLANNING, AND PUBLIC WORKS
April 18, 1958

HONORABLE L. H. LINCOLN
Speaker of the Assembly
Members of the Assembly
Assembly Chamber, Sacramento, California

DEAR MR. LINCOLN: It is my pleasure to submit the Third Report of the Subcommittee on Impact of Enemy Attack on Economy and Constitutional Government of the State of California. Contained in this report are 10 enacted bills and a constitutional amendment resulting from the interim activity which will place California in the forefront of the states in preparation for a continuation of civil government in the event of an enemy attack.

I wish to congratulate the subcommittee for its fine work and suggest that the effort of California in devising means of preserving its democratic way of life may be useful to other states.

Respectfully submitted,

FRANCIS C. LINDSAY

SUBCOMMITTEE LETTER OF TRANSMITTAL

April 18, 1958

HONORABLE FRANCIS C. LINDSAY, *Chairman*
Assembly Interim Committee on Conservation,
Planning, and Public Works
State Capitol, Sacramento, California

DEAR MR. LINDSAY: Your Subcommittee on Impact of Enemy Attack on the Economy and Constitutional Government of the State of California herewith presents its third report. The report contains a summary of the subcommittee's deliberations and the sources of factual material utilized in preparing its legislative program. Ten of the 12 measures, including a constitutional amendment, were given favorable action by the Legislature and all bills have been approved by the Governor. Your subcommittee appreciates the bipartisan support given by the full committee and by both houses of the Legislature in the enactment of legislation we believe basic to the preservation of democratic government should this State be faced with major disaster.

The members of your subcommittee have been gratified with the nationwide interest shown in its activities, as evidenced by requests for hundreds of copies of its reports and by references to its studies in other publications.

This interest, together with the need to await final review and judgment of the committee's proposals by the Legislature, has governed the time of submitting the report. It was felt that all measures should be tested by legislative approval in order that they might be more useful to the other governmental agencies across the Nation which have shown interest in the subcommittee's activities.

California has been widely credited as being the leading state in providing for the continuity of government in the event that its established constitutional government were rendered powerless by nuclear attack. Your subcommittee wishes to acknowledge the source of this program of legislation and to express its gratitude to those citizens whose inspiration and courage have helped to sustain it. First, to Homer Crotty, Esq., of Los Angeles, former State Bar President, belongs the credit for having sounded the alarm in an article entitled, "The Administration of Justice and the 'A' Bomb," published in the *American Bar Journal*, December, 1951. This attracted the attention of John E. McCormick, who presented it to your subcommittee chairman. House Resolution No. 53 of the 1956 First Extraordinary Session provided for the creation of this subcommittee.

Most of the public and private agencies and persons who co-operated in our study are acknowledged in the final pages of this report. However, special mention should be given to you for having assigned three staff members to the project: James Williams; Charles Kunsman, a Ford Foundation Intern; and John E. Caswell, assigned on contract by the Legislative Analyst. Lawrence G. Allyn, Deputy Legislative Counsel,

co-operated with the state bar committee in the preparation of the 12 separate legislative measures. The constitutional amendment will appear on the November ballot, and nine bills were sent to the Governor for signature. Two measures were held in the parent committee and sent to the Committee on Rules with a recommendation for further interim study.

Great credit must go to James Warren Beebe, Esq., chairman of the committees of the California State Bar Association and the Los Angeles County Bar Association for his tireless efforts in drafting the constitutional amendment and for his moral influence in keeping your subcommittee to the task.

Your subcommittee is most grateful to Professor Charles Fairman of the Harvard University Law School and the nationally recognized authority on the subject of continuation of civil government. Professor Fairman agreed to come to Sacramento to address the Legislature on the subject and to give the benefit of his counsel, all without recompense beyond necessary expenses.

It appears that areas particularly needing study at this time include: (1) special powers for our courts; (2) security for essential governmental records, especially at the local level; and (3) a review of the adequacy of the civil defense structure of California, with particular reference to recent developments in nuclear warfare.

Finally, we wish to call public attention to the existence of recent structural engineering studies of blast-proofing buildings. We believe these studies may be as significant in protecting public buildings and their occupants as are the present rules for earthquake-proofing of California's schools.

We are most grateful to the Legislature for the unusual unanimity of approval of the subcommittee's legislative program.

Respectfully submitted,

VERNON KILPATRICK, Chairman
Subcommittee on Impact of Enemy Attack on the Economy and Constitutional Government of the State of California
JACK BEAVER
ALLEN MILLER
BRUCE SUMNER

INTRODUCTION

The efforts of the Subcommittee on the Impact of Enemy Attack are based on certain military assumptions which forecast the possibility of terrific destruction to the population centers of this Nation. The necessity for civil defense planning arises, not from the possibility of death and destruction, but from the assurance that many millions will survive, and with them most of the natural wealth and a portion of the industrial plant of the Nation. It is the function of the armed forces to parry a military blow. It is the function and duty of civilian leaders to be ready to combat disorder, hunger, disease and social chaos. This subcommittee, therefore, continued its studies of the preservation of government at the state and local levels in the event of an enemy attack. Particular attention was paid to: (1) the succession to elective office; (2) the continuity of state administration; and (3) the preservation of vital records. The major effort of the subcommittee was spent in the preparation of legislation and revision of existing authority in these areas.

The previous work of this subcommittee is reviewed in two 1957 Assembly Interim Committee Reports.[1] These reports emphasized the role of civilian government following nuclear attack and the importance of assuring its preservation for this purpose through passage of necessary legislation.

What appeared necessary was an emergency system of law which would conform to the spirit of our traditions of constitutional government, which would minimize injustice, and which would enable the people of California to cope in an orderly, efficient and democratic manner with the difficult problems of a postattack era.[2]

This earlier work of the subcommittee resulted in the enactment of four important chapters to the California Statutes in 1957: Chapter 904, which related to the destruction of voting records and the conducting of elections thereafter; Chapter 945, which streamlined the procedure for destruction of records by the Controller; Chapter 1368, which broadly related to the preservation of local government, including the creation of standby officers on the local governmental level to facilitate the reinstitution of adequate government in the event of a disaster; and Chapter 1964, which covered the possible destruction of wills.

The earlier work of this subcommittee receive widespread attention on both the state and national levels. Copies of both reports have been distributed to state civil defense directors in every state of the Union by the Federal Civil Defense Administration, which recognized the outstanding leadership of California in this field. To cite a single

[1] *Preliminary Report of the Subcommittee on Impact of Enemy Attack on Economy and Constitutional Government of the State of California*, Assembly Interim Committee Reports, 1955-1957, Vol. 13, No. 10 (January, 1957), and *Final Report of the Subcommittee on Impact of Enemy Attack on Economy and Constitutional Government of the State of California*, Assembly Interim Committee Reports, 1955-1957, Vol. 13, No. 17 (June, 1957).

[2] *Preliminary Report*, pp. 8-9 and *Final Report*, p. 10.

example on the state level, the South Carolina State Civil Defense Organization distributed copies of the reports to all of the state's civil defense chairmen and to every member of the state legislature.[3]

In June, 1957, the subcommittee was of the opinion that there was still much to be accomplished before the people of California could reasonably be assured that in the event of a nuclear attack, civil government would be continued and the basis for reinstituting normal civil activities would be available. In line with the findings in the final report, the subcommittee decided to channel its efforts in the interim following the 1957 Legislative Session toward two major aspects of the problem: (1) the succession to elective office; and (2) the preservation of vital records.

The major work of the subcommittee from July until November consisted in gathering extensive background factual information. During this period, staff members interviewed over 200 state, county and city officials and private record experts located throughout the State. Several background papers were prepared by the staff for the use of the subcommittee members.[4] Between October, 1957, and March, 1958, a series of hearings and conferences were held to elicit testimony, explore the areas requiring legislation and develop legislative content.[5]

October 23, 1957	Meeting with National Records Management Association, San Francisco.
November 20, 1957	Meeting with County Clerks' Association, County Recorders' Association, County Supervisors' Association and League of California Cities, Sacramento.
November 25, 1957	Conference with Federal Civil Defense Administration, Santa Rosa.
November 26, 1957	Meeting with Civil Defense Officers of State Agencies, Sacramento.
January 3, 1958	Inspection tour, Western States Atomic Storage Vaults, Felton.
January 14, 1958	Hearing, San Francisco.
January 15, 1958	Hearing, Los Angeles.
January 31, 1958	Hearing, Sacramento.
March 6, 1958	Committee of Whole, California Legislature, Sacramento.
March 24, 1958	Conference, Sacramento.

Included in the subcommittee's June, 1957, Report was a draft of a constitutional amendment dealing with the preservation of state and local government in the event of a major war-caused disaster.[6] This amendment was passed by the Legislature, but was withdrawn from the Governor's desk for further consideration at the request of the Los Angeles Bar Association. Since the measure could not be placed before the people for approval prior to the 1958 general election, further study and clarification was considered desirable. This work was undertaken by special committees of the Los Angeles Bar and the State Bar, both under the chairmanship of James Warren Beebe of Los Angeles.

[3] Robert V. Ackerman. "48 States . . . 48 Targets," *The State* (Columbia, South Carolina), December 8, 1957, p. 2-C.

[4] See, for example, *Preservation of California's Local Governments Under Enemy Attack*, Appendix 1.

[5] A list of persons appearing at the subcommittee hearings may be found in Appendix 19.

[6] *Assembly Constitutional Amendment No. 65*, California Legislature, 1957 Regular Session. *Final Report*, pp. 40-41.

From staff study, conferences, and hearings, the subcommittee became convinced of the necessity and urgency of revising state legislation relative to the succession to elective office and the preparation of legislation calling for the analyses and preservation of essential records of government. With these needs in mind, Subcommittee Chairman Vernon Kilpatrick and Committee Chairman Francis C. Lindsay requested that Governor Goodwin J. Knight call a special legislative session to deal with these matters.

Acceding to this request, Governor Knight issued the following call to the Legislature in his proclamation of March 3, 1958.[7]

> To consider and act upon legislation to provide for the preservation and restoration of state and local government in the event of war or enemy-caused disaster; to provide for succession to the Office of Governor; and to amend the California Disaster Act, including such changes therein as may be required to qualify this State to receive financial aid from the Federal Government for the cost of administration thereof as provided by pending congressional legislation.

Twelve measures were introduced in the First Extraordinary Session, 1958, concerning the matters contained in the Governor's proclamation. Two were re-referred for further interim committee study, while 10 of the measures, including a constitutional amendment, received favorable legislative action, and all bills have been approved by the Governor.

The subcommittee felt that it was particularly important to emphasize the significance of its legislation designed to ensure the continuity of constitutional government in California. For this reason, arrangements were made for Professor Charles Fairman of the Harvard Law School, a national authority in civil defense, to address the entire Legislature on March 6, 1958. The text of his address, entitled "Maintaining Continuity of Government in Event of an Atomic Attack," is included in the appendix.[8]

[7] *Proclamation of the Governor*, March 3, 1958, Item 28.
[8] See Appendix 2.

SUCCESSION TO ELECTIVE OFFICE

Studies and hearings reaffirmed the subcommittee's conclusions of 1957, that the legal provisions for succession to elective office were not adequate if there should be a nuclear attack on California. The subcommittee felt that it should assume the possibility that the Governor's entire present line of succession could be destroyed. The same might be true for both Houses of the State Legislature, for boards of supervisors, and for mayors and city councils. Adequate need existed to devise a method that would assure that the Governor's position could be legally filled, and that the Legislature, in whatever form it existed after an attack, could do business immediately. The subcommittee had stated in its previous report that the declaration of martial law is both undesirable and inefficient.[9] If our society is to repair and reorganize itself as a continuing democracy after a nuclear attack, it would be absolutely necessary to insure the continuity of leadership, both legal and actual.

The problem of succession to elective office was carefully studied by special committees of the Los Angeles Bar Association and the State Bar Association. These organizations presented a detailed report to the subcommittee[10] containing specific recommendations for a constitutional amendment. In conference with the Legislative Counsel, this amendment was drafted and submitted to the California Legislature in the First Extraordinary Session of 1958, where it became Assembly Constitutional Amendment No. 5.[11] The amendment was passed by both Houses of the California Legislature and sent to the Secretary of State. Following the provisions of Assembly Bill No. 76,[12] also introduced by this subcommittee, A.C.A. 5 will go before the voters of the State at the November, 1958, general election.

The passage by the voters of this constitutional amendment will be the keystone to much of the legislation recommended by the subcommittee and passed in the 1958 Session. The amendment will modify the succession to the governorship by permitting the Legislature to extend the list of successors by statute. In addition, successors now on the list shall *become* Governor rather than act as Governor and perform his duties in the event of a vacancy.

In case of a war or enemy-caused disaster, it might be necessary for the successors presently named in the constitution to fill the Governor's office. This amendment will remove the possibility of difficulties arising in this succession.

The amendment also would give the Legislature power to provide by law for filling vacancies in its own membership in the event that an enemy-caused disaster were responsible for the death or incapacity of either the incumbent Governor or at least one-fifth of the members of either House of the Legislature. In addition, the amendment permits

[9] *Final Report*, p. 13.
[10] *Report of the Special Committees of the Los Angeles Bar Association and the State Bar Association*, see Appendix 3.
[11] Appendix 4.
[12] Appendix 5.

the Legislature to provide by law for: (1) the convening of the Legislature in general or extraordinary session; (2) the calling and holding of elections to fill constitutional offices; and (3) temporary seats of government for the State and counties.

The subcommittee believes that the passage by the voters of this amendment is a minimum guarantee to provide continued civil government in California in the event of a major enemy-caused disaster. Such passage will strengthen further the operations of the California Disaster Office which, in conjunction with the Federal Civil Defense Administration, is charged by law with the immediate problems of civil defense.

Assembly Bill No. 66 [13] was introduced to provide a line of succession to the offices of Lieutenant Governor, Secretary of State, Attorney General, Treasurer and Controller. The provisions of this bill authorize these officers to designate a number of standby officers to assume office and perform their duties in the event of death or disability resulting from an enemy-caused disaster. This bill was re-referred for further interim study.

Assembly Bill No. 67 [14] provides for the convening of the Legislature following an enemy attack, either in Sacramento or at a temporary seat of government. The bill also specifies the powers of the Legislature at such a session. This bill passed the Legislature and was signed by the Governor on April 15, 1958, and will take effect upon adoption of the constitutional amendment.

Assembly Bill No. 68 [15] establishes a procedure for filling vacancies in the Legislature caused by a wartime disaster. The bill provides that the surviving members of each house may fill vacancies by majority vote. These appointments are to be made so that each district would be represented, if possible, by a member who is a resident of that district, and a registered voter of the same political party as his predecessor. Passed by the Legislature and signed by the Governor on April 14, 1958, this bill will become effective when the voters approve the constitutional amendment.

Assembly Bill No. 69 [16] authorizes the Governor to designate an alternate seat for State Government in the event of a disaster and to provide adequate facilities at that location. *Assembly Bill No. 70* [17] provides for the designation and use of temporary county seats by boards of supervisors in the counties of California, to be used in the event of disaster. Both of these bills passed the Legislature, were signed by the Governor, and will become effective upon the adoption of Assembly Constitutional Amendment No. 5.

At the 1957 Session, the Legislature enacted Chapter 1368, providing for the designation of standby officers of local agencies who would act in the event that the local officers were killed or disabled by enemy-caused disaster. *Assembly Bill No. 72* [18] eliminates the provision of that act which prohibits the designation of officers or employees of the local agency as such standby officers. This permits the agency to use either

[13] Appendix 6.
[14] Appendix 7.
[15] Appendix 8.
[16] Appendix 9.
[17] Appendix 10.
[18] Appendix 11.

its own employees or outsiders for such purposes. This bill passed the Legislature and was signed by the Governor on April 10, 1958.

Certain additional matters associated with the problems of elective officers were dealt with by two other bills. *Assembly Bill No. 71*[19] repealed Section 4362 of the *Labor Code* relating to workmen's compensation benefits for disaster service workers. This section had imposed a limit of $2,500 for the payment of the cost of medical, surgical and hospital treatment for such workers. Passage of this bill removed an unreasonable limitation that penalized some of California's most civic-minded citizens.

Assembly Bill No. 75[20] provides that members of the California Highway Patrol, fish and game wardens, and forest rangers, who are within an area where disaster or extreme emergency is proclaimed, shall have the full powers of peace officers within the area during the period of emergency.

Upon adoption of the constitutional amendment, the subcommittee's legislative program described above will furnish the legal framework for the continuation of democratic, constitutional government in California and make less likely the declaration of martial law in the event of an enemy-caused disaster.

[19] Appendix 12.
[20] Appendix 13.

PRESERVATION OF VITAL RECORDS

Staff representatives of the subcommittee visited officials of California cities and counties to obtain background information on the types of local government records that would be needed during and after a disaster. They also investigated the extent to which local governments had made plans to protect their essential records.

Further information was obtained, and a step toward common understanding taken at a meeting of the subcommittee with representatives of the associations of county clerks, recorders and supervisors and the League of California Cities at Sacramento on November 20, 1957. The same groups were represented at the formal hearings held at San Francisco, Los Angeles and Sacramento during January.

COUNTY CLERKS' RECORDS

The organization of the clerks' records and indexes was found to vary somewhat between counties. However, there was general agreement that certain registers and indexes would provide all essential information. Microfilming of actual case files was felt to be unnecessary.

One list of county clerks' records suggested as appropriate for microfilming follows:

1. All civil and probate indexes;
2. Civil and probate registers of actions;
3. Civil and probate judgment books;
4. Criminal indexes and registers;
5. Superior court minute books: civil, criminal and probate.

COUNTY RECORDERS RECORDS

Land title records form a large share of the files of the county recorders. Certain other documents, such as divorce settlements, are also needed in order to preserve individuals' equities in society. Many recordings, such as short-term liens, are of temporary and usually minor significance. It is questionable whether they should be microfilmed.

Making security copies of land title records would be a staggering job, were it not that title insurance companies have been working on the problem in metropolitan areas. Among the problems needing further consideration is the question of whether it is good public policy to depend, for legal purposes, on copies that have been outside of official custody. The next consideration is the value of the proprietary right in such copies or abstracts if the official record is destroyed.

Once a single microfilm negative of a record has been made, the cost of a second copy for security purposes is minor. It is fortunate that a number of areas are finding microfilm desirable as an administrative economy. The largest single group of recordings in the State, those of the Los Angeles County Recorder, are now being transferred to microfilm.

It appears that the time may be at hand when each county recorder should make his own microfilm negative, sell copies to title insurance companies, and place a security copy in a vault outside any major target area. This may involve the laying down of rules for organizing the recorders' records in such a way that recorders are not required to microfilm and the title insurance companies are not forced to purchase records of marginal value.

LEGISLATIVE AND ADMINISTRATIVE RECORDS OF CITIES AND COUNTIES

The volume of ordinances and other legislative records of any single unit of local government is so small as to present no grave physical or financial problem in making security copies. There are technical questions involved in maintaining security files up to date. These same questions are met in the maintenance of current fiscal records.

There is considerable question as to whether accounts payable and receivable, and similar fiscal records should be microfilmed because of their short period of high usefulness. Certain business firms and at least one major department of the State Government have determined that an additional carbon copy of such records should be sent to a remote location and retained for a very short period. This avoids the cost of microfilming and the possible necessity of reproduction during or after an emergency.

Engineering drawings have probably received as careful treatment as any single group from local governments. Locations of underground utilities and building designs will be of utmost importance in the first days of reconstruction. There is real question, however, whether sufficient facilities for reprodutcion from film will be available in such a period. The solution of the problem, then, appears to be dispersal of full-size copies. While the State Department of Public Works has taken notable steps in that direction, we are not aware of any adequate program of dispersal in any single local government in California.

SECURITY STORAGE

A problem which has not been solved satisfactorily at either the State or local level is the location and type of structure in which to store security copies of essential documents. Development of hydrogen bombs has rendered unsafe the storage facilities used by the City and County of San Francisco, and by the County of Los Angeles. Neighboring governments have also availed themselves of these facilities, although not to the extent possible or desirable.

Security copies of records should be at the alternate seat of a government, and thus available for its use during an emergency. Where no alternate seat is provided, or where a second security copy of certain documents is desirable, a single high-grade security center should be available at a strategic location in the State.

LEGISLATION INTRODUCED

The subcommittee introduced *Assembly Bill No. 71*[21] instructing each city, county and other local public agency to determine which of its records would be essential in the event of a nuclear disaster. The bill further provided that such essential records should be duplicated by whatever process was most feasible, and the reproductions stored in a dispersal facility. The nature of the dispersal facility was carefully defined. It was further provided that the Secretary of State should provide such a dispersal facility with which the local public agencies might contract. This bill was re-referred for additional interim committee study.

STATE RECORDS IN RECONSTRUCTION

Your subcommittee met with top representatives of the State's departments and agencies on November 26, 1957. While certain departments have progressed since 1956 in establishing an essential records program, too many agencies have not yet taken the basic steps toward establishing policies regarding selection and safeguarding of essential records.

We wish to cite with approval several features of two programs which are worthy of study by other departments and agencies.

The Division of Highways has decentralized much of its storage of drawings, sending originals to the districts concerned. Microfilms have been made for administrative use in Sacramento. This is an administrative economy, as well as supplying full-size drawings near the points of need in case of disaster.

The Department of Employment has drawn up a schedule by which copies of important records will be sent at stated intervals to storage at a regional office. By means of control cards and a locator system, materials will be removed when out of date, and the entire operation reduced to routine. This resembles in many points the practice of the Pacific Telephone and Telegraph Company.

STATE RECORD SECURITY STORAGE

The Secretary of State is able to supply space for departmental microfilms in a specially designed atomic vault.

The Division of Highways has offered to make available sufficient space in two district offices to accommodate other departments that wish to disperse copies of such items as fiscal documents which are best stored in the original for early discard. There are several possible arrangements for financing the small cost involved.

The offer of the Division of Highways constitutes a temporary expedient. Most such essential documents should eventually be placed in adequate storage at the alternate seat of government where they would be available for immediate use. It should be noted that *Assembly Bill No. 69* (1958 First Extraordinary Session) provides that "* * * the Governor shall designate * * * an alternate temporary seat of government for use in the event of war or enemy-caused disaster. * * *" The bill further authorizes the Director of Finance to provide facilities for the use of government "* * * in the event it becomes necessary."

[21] Appendix 14.

This measure does not contemplate the construction of special facilities prior to an emergency.

The desirability of constructing special facilities at a designated alternate seat of government is a topic needing study. Office space as such is secondary to the problem of relocating the California Disaster Office's communications center and reappraising the location and construction of the atomic vault used by the Secretary of State. The latter should be tied in with a reappraisal of the nature and requirements of the Central Record Depository.

LEGISLATION ON STATE RECORDS

The subcommittee introduced *Assembly Bill No. 73*[22] in the 1958 First Extraordinary Session to assure the preservation of essential state records. This bill provides that each state agency, with the concurrence of the Department of Finance, shall determine what records it has that are essential to the functioning of State Government in the event of a major disaster. Copies of such vital records should be made and stored by the Secretary of State in an appropriate place. The bill also provides that such copies shall have the validity of the originals in the event that the originals are destroyed by a disaster.

The bill, as originally introduced, contained an appropriation of $50,000 in order that its provisions could be fully carried out. This appropriation was deleted from the bill, but the Director of Finance, John Peirce, assured the committee that "* * * the Department of Finance can and will carry out the intent of the bill."[23] Two experienced record analysts have recently been employed by the Department of Finance, part of whose time will be available to assist the agencies in analyzing their essential records' needs.

CIVIL DEFENSE FUNCTIONS OF THE ADMINISTRATIVE DEPARTMENTS

Following subcommittee conferences with the operating departments of the State and the California Disaster Office, Governor Goodwin J. Knight issued Executive Order No. 58-CD-1 on April 2, 1958.[24] Administrative orders have subsequently been issued detailing the specific functions to the operating agencies of the State.[25] The Governor's Office, through the California Disaster Office, is preparing additional administrative orders for the following: the Departments of Natural Resources, Water Resources, Social Welfare, Finance, Corrections, Mental Hygiene, and Justice, the Adjutant General, and the Fire Marshal. It is anticipated that these additional administrative orders will be available as addenda to this report in a period of weeks. Copies will be available at the office of the Assembly Committee on Conservation, Planning, and Public Works.

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[22] Appendix 15.
[23] Letter from John M. Peirce, Director of Finance, to Assemblyman Vernon Kilpatrick, April 4, 1958. See Appendix 16.
[24] Appendix 17.
[25] *Administrative Orders No. 58-1 to 58-8.* See Appendix 18.

UNFINISHED BUSINESS

While the subcommittee's work during the first part of the interim has resulted in substantial legislation to solve the most urgent problems, those of succession to office and the preservation of records, the subcommittee recognizes that many problems related to the maintenance of civil government in times of national disaster have not been explored.

As emphasized in the report of this subcommittee in June of 1957, the problems of the judiciary and the protection of rights of persons and corporations need further study and clarification by the subcommittee and co-operating persons and organizations who have assisted the subcommittee during the past three years.

Testimony developed at hearings and conferences of the subcommittee have indicated that the functions of the California Disaster Office, its relation to other state agencies and local government, and the Federal Civil Defense Administration is not clearly understood by the public. During the remainder of the interim, the subcommittee staff will devote time to the review of these functional relationships and prepare the factual basis for possible committee action.

Additional exploration by the subcommittee in co-operation with responsible state departments on the location of alternate state governmental sites is necessary during the interim. These sites should be so located, designed, staffed, and provided with such essential records and equipment to permit the continuance of civilian government.

APPENDIX 1

PRESERVATION OF CALIFORNIA'S LOCAL GOVERNMENTS UNDER ENEMY ATTACK

Staff Paper Prepared for Discussion Purposes

The Assembly Subcommittee on Impact of Enemy Attack on the Economy and Constitutional Government of California

PURPOSE

This paper contains a summary and discussion of assumptions regarding enemy attack and of methods of meeting civil disruption through maintenance of local governments. It is intended as a basis for further thought and discussion and does not represent the official conclusions of the subcommittee or any members thereof.

The study is based on interviews with a number of persons holding responsible positions in city and county administrations ranging in size from that of Los Angeles to that of Nevada County.

Each person receiving this study is cautioned to refrain from becoming an alarmist. The study of history reveals many more war scares than wars. However, an adequate civil defense program is like a term insurance policy: it is bought without the sure anticipation that the benefits will be required. It is the part of prudence to recognize the possibilities existing in the present international situation, and to take the necessary minimum steps to insure against unnecessary suffering and social disorganization. This can be accomplished by foresight, planning, and decisiveness.

SUMMARY

1. *Assumptions regarding enemy attack on California.*
   a. Although by no means certain, it is entirely possible.
   b. Short-range missiles and aircraft must be reckoned with as well as intercontinental missiles.
   c. It would probably be made without warning.
   d. The alternative assumption of several weeks' warning leads to such conclusions as a need for evacuating up to 7,000,000 people from major population areas.
   e. In case of a surprise attack on California, a large portion of the administrative personnel and relief supplies will have to come from rural areas.

2. *Alternate seats of government.*
   a. Every city of over 100,000 population and every county with a rural population of 250,000 should be required to set up an adequate alternate seat of government.

3. *Alternate government officers.*
   a. The more populous cities and counties should be required, and the less populous encouraged to appoint alternate officers and administrators.
   b. At least one alternate for each principal post should be selected from areas outside target zones.
   c. A Screening Committee should be set up at the state level to provide a panel of alternate officers.
   d. A "reserve training period" should assure that each appointee knows the emergency functions of his office.

4. *Essential government records.*
   a. One complete set of all essential manuals, maps, plans and handbooks should be maintained current at each alternate seat of government.
   b. Records of personal and property rights should be copied (microfilmed normally) and kept in a bombproof vault.

DISCUSSION

1. Assumptions Regarding Enemy Attack

In this discussion we shall be referring to two different sets of assumptions regarding the nature of an enemy attack. *Situation I* shall be used to designate the conditions envisaged in July, 1957, when the City of Los Angeles Office of Civil Defense staged "Operation Alert." *Situation II* shall designate a "Pearl Harbor" sneak attack with hydrogen weapons.

The political and military assumptions of "Operations Alert" (Situation I) allowed a full month for civilian evacuation. Military mobilization "began" on June 10th. On June 16th, the Governor "proclaimed" a State of Extreme Emergency, and "evacuation" of Los Angeles was begun on a voluntary basis. Organized evacuation "began" on June 18th and continued to July 11th. Only on July 12th was the city assumed to be in full emergency status.

We believe that a "strategic evacuation" as outlined above would be ordered only when the international political situation had hopelessly deteriorated. Such an evacuation would be interpreted as the last step before war, and the potential enemy would take it as a cue to strike quickly with all the force at his command.

Even a "tactical evacuation" on a few minutes' to a few hours' notice is unlikely, not only because of the development of the intercontinental ballistic missile, but also in view of the use of short range missiles from submarines and the success of intruder aircraft during the 1957 NATO fleet exercises in the Mediterranean.

Planning for evacuation is justified, however, so far as population movements, food supplies, and refugee camp sites are concerned.

Situation II, however, should be the basis for planning the continuation of government. There are two reasons for this:

1. It is the more realistic assumption;
2. It is the more "conservative" assumption, because it requires a more complete plan for the continuation of government.

What is Situation II? It assumes a four-pronged attack on California, at the same time that all major industrial centers in the United States are struck. Los Angeles and the San Francisco Bay area would be struck by 20 megaton bombs, Sacramento and San Diego by 10 megaton bombs. The fallout would be carried eastward. Such an attack was assumed in the Santa Rosa civil defense paper exercise of late 1957, except for San Diego. We believe San Diego's value as a naval base makes it a major target.

In the Santa Rosa exercise, only 15 minutes' notice was assumed. Five millions were assumed to have been left dead or dying, and four millions homeless. While the refugee problem is cut in half under Situation II, other problems are created or intensified:

1. Most officials of large cities dead;
2. Most food processing plants destroyed;
3. Much of the grain reserve destroyed or unfit for consumption;
4. Normal clothing stocks gone;
5. Medical wholesalers wiped out;
6. Surviving population in metropolitan fringes dazed or in actual physical shock;
7. Most corporate officials and engineering staffs dead;
8. Major long-distance telephone exchanges destroyed;
9. Large areas of the countryside unfit for refugee camps because of radiological contamination;
10. Large numbers of desperate people whose civilized inhibitions have broken down, and who will tend to seize whatever they can find to sustain life.

In cases of floods, fires and earthquakes, aid from surrounding states is immediately available. In the case of an enemy attack, the areas with the greatest resources are most apt to be hit, and disorganization throughout the Nation is likely to prevent immediate relief.

2. *Alternate Seats of Government*

A number of cities and counties have designated alternate seats of government, on the assumptions of Situation I. As the major cities of the State have very definite natural advantages, and as it may be assumed that some remnant of property values will remain, the functions of government must be continued in these areas. Presumably civil defense organization will be based at the alternate seats.

We note, however, that in certain instances communications facilities are inadequate; in other instances, specific buildings have not been selected; at times the space allocated seems inadequate to practical requirements; manuals, operating instructions, maps and drawings are not available; and the best laid out headquarters we have inspected is now definitely within the target area of an H-bomb.

We recommend mandatory legislation requiring: (1) all cities of over 100,000 population; and (2) all counties with populations of over 250,000 after excluding cities in the first list, to establish alternate seats of government outside major target and fallout areas. Based on

California Department of Finance's estimates as of July 1, 1957, the following cities and counties would be affected:

Cities	*Population*	*Counties*	*Total population*	*Net population*
Fresno	121,000	Alameda	873,900	468,400
Glendale	118,000	Contra Costa	356,700	356,700
Long Beach	309,100	Kern	273,400	273,400
Los Angeles	2,334,200	Los Angeles	5,598,300	2,717,700
Oakland	405,500	Orange	511,400	511,400
Pasadena	119,300	Sacramento	427,100	268,100
Sacramento	159,000	San Bernardino	435,700	435,700
San Diego	495,000	San Diego	900,400	495,400
San Francisco	776,000	San Mateo	378,100	378,100
San Jose	130,000	Santa Clara	527,500	396,700
Total	4,967,900	Total		6,211,600
				4,967,900
		GRAND TOTAL		11,179,500

The effect of this would be to assure centers for direction of 78.9 percent of the State's 14,160,000 population with the burden placed on the 10 cities and 10 counties presumably best able to provide the facilities.

We suggest for discussion and elaboration the following standards for an alternate seat of government:

1. A location protected from major damage if a bomb of maximum anticipated size fell anywhere within the major target area.
2. A structure capable of resisting secondary blast damage.
3. A location outside fallout area, based on wind direction 90 percent of the hours of the year.
4. Radiophone facilities usable independently on police, civil defense and amateur wavebands. (*i.e.* tied into the main California Disaster Office networks.)
5. Desks, chairs and cots for no less than half the anticipated complement of workers.
6. Food for 30 days for the full complement of workers.
7. An independent underground water supply.
8. Underground cable connections with American Telephone and Telegraph long-lines at a point outside any major industrial or military target area.
9. Access to a landing strip for light planes.
10. A location, if possible, near to the probable line of civilian evacuation, but not immediately on that line. This applies particularly to cities.
11. A microfilm storage room meeting the National Bureau of Standards specification on temperature and humidity ranges.

The following illustrates the present level of planning in several of the most advanced communities.

Los Angeles County has established a civil defense communications center about 10 miles northeast of the Civic Center. Established in the days before the hydrogen bomb, it may have been adequate at that time. At present, it is well within a primary target area. All offices and communications facilities are aboveground. A vault originally

intended to house the communications center has never been completed. In two finished wings of the vault are microfilm copies of Los Angeles County land title records and certain other public documents. Drawers have been reserved for the smaller cities of Los Angeles County, but few if any have taken advantage of this opportunity. There is a revetment in front of the main door of the vault, but all vault doors appear to be of wood sheathed with sheet metal. The vault is safe neither from blast nor from radioactive contamination.

Los Angeles City has established an alternate seat of government to the northwest. Plans have been made to fly the mayor there by helicopter. There are certain communication facilities. However, we are informed that no effort has been made to collect at the alternate seat the documents, maps and records essential to direct the various emergency services.

San Francisco City and County has established an alternate seat of government at a tubercular hospital approximately 30 miles down the peninsula from the Civic Center. It is situated in a ravine and is reasonably secure from blast or radioactive fallout. The fact that it is about two miles off the major route of evacuation is probably an advantage. However, the only effective means of evacuation of top officials would be by helicopter, and landing at the hospital itself would probably be hazardous. We have no information on plans for communications.

Sacramento City has designated Auburn as its alternate seat of government. However, no quarters have been obtained. A mobile radio unit has been requested, but as of October 9, 1957, no funds have been made available.

3. *Alternate Government Officers*

The 1957 California Legislature passed a measure (A. B. No. 2781, Stats. 1957, Ch. 1368) providing for the reconstituting of boards of supervisors and city councils after enemy attack. It further authorized local agencies to provide for succession in office to departmental administrative officials. As determination of the extent to which this authority has been put to use was not originally a part of this investigation, no systematic checkup was made. We have not heard of any boards of supervisors or city councils taking advantage of this authority. Hence this should be made mandatory in the more populous areas.

In the administrative departments of some counties and cities, lines of succession have been set up, even if no replacements for the top executives and the legislative body have been chosen. The fallacy of appointing an alternate who will probably be in the same area as his principal on "B-day" is obvious under Situation II. It is even fallacious under Situation I, where some of the principal administrators would probably remain within the target area to maintain the minimum services. Hence a panel of alternates, perhaps two alternates for each position, should be selected from outside the major populated areas.

In some cases alternates to departmental heads may be drawn from the technical staffs of neighboring communities. However, a valuable source of administrative talent lies in retired men and women, many of whom have homes in California rural areas and mountains. If this

second group is to be tapped successfully and with a minimum of effort, central screening is needed. The merits of central screening are:

1. Systematic survey of personnel available.
2. Better utilization of experience.
3. Reduction of personal acquaintance and political favoritism as factors in appointment.
4. Simplification of security checking.

We suggest as a topic of legislation the authorization and financing of a panel of acceptable alternates for major posts. A possible method of preparing the panel of candidates follows:

1. Detail employees of State Personnel Board as staff for screening committee.
2. Circularize city councils, boards of supervisors, chambers of commerce, labor councils, and veterans organizations, describing purpose of panel and asking nominations.
3. Make personal calls on heads of each of above bodies for verbal discussion of merits and qualifications of nominees in that area.
4. Send letter to each nominee who meets qualifications set up by selecting committee.
5. Interview those who respond favorably.
6. Arrange security check.
7. Circulate list to co-operating local governments, with private and verbal recommendations.

The question of "reserve training" is tied in with finances. As an initial step, authority should be provided by statute for local governments to pay per diem, travel expenses and a daily fee. Per diem and travel for a five-day training period would presumably average no more than $20 a day, or $500 a year, for a city that needed alternates to the mayor, police chief, fire chief, superintendent of street repair, and superintendent of utilities. Daily fees would be an additional cost. Conceivably, additional experience could be gained by the alternates serving as vacation relief.

4. *Essential Government Records*

Emergency Files. A study of State Government records, made at the request of this subcommittee in March, 1957, by an *ad hoc* committee representing the Department of Finance, the Secretary of State and the Legislative Auditor, reached the conclusion that very few records were actually essential during an emergency.

Types of records needed in the days immediately following an enemy attack include:

1. Maps of underground utility lines;
2. Information on locations of food, clothing, medicines, fuel;
3. Data on communications;
4. Local organization and instruction manuals (basic manuals provided by the California Disaster Office and the Federal Civil Defense Administration).

Transactions of Legislative Bodies. Minutes of the various boards of supervisors and city councils are basic historical records which should be microfilmed. Thinly populated counties outside major target or fallout areas might be exempted. There is a question as to whether the minutes of special districts' boards should be microfilmed as well.

We suggest that the county boards of supervisors be required to estimate the cost to the county of microfilming on a page basis, and notify all special districts under their charge of the availability of services. The decision on microfilming, and the costs, would then be left to the local boards except where the boards of supervisors made it mandatory.

Personal Records. During reconstruction, it appears that such personal records as those of births, deaths, marriages, school graduation and professional licenses will be important. Vital records will be important in determining succession to property. School records and professional licenses constitute evidence of a certain level of competence. In an emergency, each person willing to attempt a professional job will probably be used. During reconstruction, it may be necessary to have summary examinations of professional licensees to determine whether mental and emotional stability has been retained.

The cost of security microfilm copies of birth, marriage and death records has been budgeted by the State for 1957-58. Microfilms of final school records have been made in certain San Francisco high schools, and presumably in other cities. Microfilming of student records in the state colleges is under consideration. As these are permanent records with low reference use, savings in storage will probably pay for both the original and security microfilms over a period of years.

Property Rights. Rights in land will probably be the form of wealth most likely to survive. These rights are represented by: title deeds, deeds of trust, property settlements in divorce decrees, recorded wills, shares in landholding corporations, and similar legal documents. If a reasonable semblance of present government and society is to continue, it is necessary to protect these records.

Counties are the principal custodians of these records, the majority of them reposing in the recorder's office. Court decrees are found in the clerk's office.

In a typical California county today, the title insurance companies will have made microfilms of most current land records, but there is no guarantee that security copies have been made. In Los Angeles County, Title Insurance and Trust Company has made abstracts which are microfilmed and copies stored outside the Los Angeles area. Land Title Insurance Company has microfilms going back over a decade. The recorder has had microfilms made which go back to the beginning of his records. The title insurance companies have indexes by location and name, whereas the recorder has indexes only by name.

In San Francisco City and County, the recorder has an incomplete microfilm file of transactions for the past four years. Originally made for the assessor's use, they have been returned to the recorder but are lying around in the main office. The California Pacific Title Company

has microfilmed about 95 percent of the documents recorded since July, 1952, including all land title documents. The original microcopy is kept in a vault in Redwood City, 35 miles south. Bay Counties Title Company has microfilms dating to 1948, and some scattered earlier films. However, all its microfilms are within a block of the Recorder's Office. There appears to be no microfilm of San Francisco County Clerk's divorce and probate records, municipal and superior court actions. The San Francisco Recorder has less than a quarter the microfilming problem of the Los Angeles County Recorder. In a city so conscious of the loss of records in the 1906 fire, it is amazing that her officials have not been leaders in this field.

Alameda and Sacramento Counties are typical of the middle bracket of California counties. In neither has the recorder done any microfilming, cost being raised as an objection. As these are permanent records, savings in office space and shelving may be expected to liquidate the cost over a few years.

Placer and Nevada Counties have been taken as typical of the smaller counties. In Placer County, all the recorder's documents have been microfilmed. The films are stored a half-mile away in a bank vault. The space in this vault has now been filled and additional storage facilities are needed.

In Nevada County, filming of county records has been proposed to the supervisors and turned down on the basis of cost.

In regard to land title records, we offer the following detailed conclusions:

1. Security microfilms should be made in all counties, in anticipation that they will work a long-range economy in administration.
2. Commercial or publicly-owned vaults utilized must be outside of major target areas and capable of standing up under anything but a direct hit.
3. There should be voluntary co-operation between title insurance companies and county recorders in order to minimize costs. Title insurance companies should store a security copy of all films outside any anticipated target area.

Court Records. While current title insurance company practice demonstrates the need of microfilming practically all recorders' documents, no standard doctrine has been developed for county clerks' records.

One may classify county clerks' records by the type of record, and by the type of case. There is the basic folder of filings for each case, the judgment book, the register, and the index. A separate series is usually established for criminal cases, civil cases, probate, and insanity.

Microfilming of the judgment books, registers and indexes provides the basic record of all cases. As these are ordinarily in bound volumes, they must be photographed with a planetary camera at a cost of perhaps 3 cents a page.

The main problem in regard to county clerks' records is the establishment of a rule regarding microfilming of the original filings of different types of cases. Factors worthy of consideration are:

1. Even judicial business will not be "as usual" in a situation where these microfilms must be used.
2. For most purposes judgment books, registers and indexes will suffice.
3. For certain types of cases there is practically no reference to the original file once the case has been heard.
4. Judgments may not suffice in cases dealing with property, such as probate and divorce proceedings.
5. A related problem on which all concerned should make recommendations is the setting of rules for destruction of case files of superior courts and their predecessors. Authority to destroy a portion of the files will go far to solving the space problems of certain counties. Example: Misdemeanors, destroy file after 10 years; felonies, destroy file after 25 years; civil suits involving property under $2,000 value, destroy file after 10 years; civil suits involving judgments of under $25,000 destroy file after 25 years; probate records, do not destroy. Clerk of court to stamp destruction date on all files after final judgment is rendered. Judge to order cases of particular legal or news interest marked "permanent." All files prior to December 31, 1880, to be retained because of historic interest, but not to be microfilmed except when they pertain to property rights or have exceptional historic interest. Microfilm no files with less than 25 years' retention periods.
6. Old-type folder files are difficult and costly to microfilm.

San Francisco microfilmed all her records up to 1942. In view of the probability that much of that microfilming could have been eliminated, it is perhaps as well that there has been no general program before formulation of a statewide policy.

Alameda County is on the point of microfilming her records from 1926 to 1942 because of shortage of space, but apparently has not considered microfilming her more current records as a security measure.

Placer County, which microfilms the recorder's documents, has not embarked on a similar project in the county clerk's office.

Current Fiscal Transactions. Opinion is divided as to the need for preserving records of current fiscal transactions. Most of them become out of date in 30 days. There is a further question of a city's ability to pay current bills after being subjected to attack. We suggest the possibility of making a full-sized copy, in many cases a carbon, of the records, and forwarding it currently to the alternate seat of government. In cases where the alternate seat is not manned, a public agency or bank at or near the alternate seat should be named the recipient.

Payrolls and Retirement System Records. These are generally considered to be extremely important in maintaining the rights of civil servants in retirement plans. The State Employees' Retirement System has quite an adequate system of safeguarding the records of employees of local governments which contract with it. Other local governments, notably San Francisco City and County, retain their own retirement systems.

If retirement system records are safeguarded, and if one may anticipate extensive reassignments and reclassifications of personnel after a disaster, there is considerable question as to the wisdom of making any substantial investment in microfilming payroll and personnel records.

Plans of Utilities. For rescue and rehabilitation, knowledge of all water, sewer, power and gas lines is essential. Knowledge of telephone cables is only less so. It is probably desirable that each city and county engineering office have plans of the major buildings within its jurisdiction.

Because of storage problems, certain agencies, such as the State Division of Highways, are adopting 105 mm. microfilm for preserving their drawings. Except for bridges, the need for such drawings during an emergency is probably slight. Such, however, is not the case with maps, charts and drawings needed during the height of an emergency. Only in exceptional cases will the facilities for rapid reproduction be available.

Hence it appears essential that all local governments within a probable target area, or those of sufficient size to be required to have an alternate government setup, analyze the needs of both central command posts and utilities teams, and supply all needful maps and drawings at the alternate seat of government.

Municipal utility districts, county water districts, sewage districts and similar operating organizations must be brought within the scope of such planning by the present city councils and boards of supervisors. As with other utilities' organizations, many of the individuals are already members of civil defense teams. It is also essential that the parent county and city governments provide the maps, drawings, and copies of emergency procedures necessary to co-ordinate rescue, relief and rehabilitation activities.

Co-ordination With Private Utilities. Private utilities appear to be ahead of governments in their planning for disasters. The Pacific Telephone and Telegraph Company has an extensive security microfilming program. It has an emergency storage center outside any major target or anticipated radiological fallout area. This center has been shifted during September-October, 1957, as a result of new information on radiological fallout. It has a priority list for restoration of records and full facilities for making prints from microfilm at its security storage location. In addition, it has selected alternate personnel and established training and retraining programs "to assure operation of these installations under emergency conditions."

The Pacific Gas and Electric Company began its program of microfilming and safe storage of vital records in 1950. Important records back to 1905 were filmed. All records that are microfilmed are kept up to date, some on a monthly, others on a yearly, basis. All 1956 records had been filmed by September, 1957. Among the items filmed are: office records and maps; deeds, rights-of-way, title insurance policies; contracts, leases and permits; legal files and indexes of the Land Department; all basic engineering designs for plant facilities and lines, substations and steam plants; transmission line maps, drawings pertaining to underground pipelines, and reports on meters of the Department of

Gas Operation; bylaws and minute books of the board of directors and the executive committee; stock records on all holders of common and preferred stock, dividend records; and all vital accounting records.

In addition, the San Francisco Bay area divisions of the company have buried underground at peripheral points steel containers with such important emergency records as electric underground maps, street lighting maps, electric distribution maps, steam maps, and gas department block maps.

By contrast, one civil servant of high rank in a water department saw no use in having security records—he, himself, could direct all emergency activities. We grant the necessity for operating personnel—but we cannot guarantee the survival of any one individual to do the operating. Hence, this program should include both plans and alternate personnel.

APPENDIX 2

MAINTAINING CONTINUITY OF GOVERNMENT IN EVENT OF AN ATOMIC ATTACK

An Address by Charles Fairman, Professor of Law in Harvard Law School, Before a Joint Session of the California Legislature on Thursday, March 6, 1958

We seek to forge for America the whole armor of national defense. This is a work of many parts. It is a work of science, as the Country recently became acutely aware. It is a work of strategic planning and direction—a matter on which groups of distinguished citizens have been offering prescriptions. It is a work for large forces in being, constantly ready—we are assured—to react to an attack. Our willingness—even eagerness—to support an adequate military budget reflects our determination not to be overcome and our hope that by preparing we may deter. In all this we see the people's deep concern for national security, their longing for a safe deliverance—and their dependence upon those who, by holding office, are the bearers of responsibility for us all.

I am invited to address you on the impact an atomic attack would have upon civil government and administration. This is a vital matter. Here is a vulnerable point where it is the state governments that must forge some of the national armor. This is not the task of scientists or of generals. It is not a matter on which you must await action in Washington—although, as I shall point out, there has been a woeful lack of leadership that would point out to the states the urgency and the method of doing those things only the states can do. Here is a duty, and what may be accepted as a joyous opportunity. It is a duty resting upon those who hold office in this and in the other state governments. It is a task for men with practical experience in legislation and administration. It is an opportunity, because by readying your state to withstand the impact of an attack you point the way for other states. By making our institutions notoriously strong, we erect another deterent to attack. In this respect, our salvation lies within ourselves.

You can ignore your responsibility, but you cannot shift it. Homer's epic account of the war with Troy, recalling how the ground was heaped with mountains of the dead, comments that 'twas for the ruler's fault, the people died. Let that phrase haunt our minds. Failure of legislatures now to shore up our institutions against the danger of atomic blast would, indeed, add mountains to the dead and call forth malediction from those that survived.

The California Legislature has made a memorable start. That even a start has been made is itself memorable. The two reports of the Assembly's Subcommittee on Impact of Atomic Attack are very able and outstanding papers, serving to instruct those who in other jurisdictions are making plans for survival. Your effort thus far is, however, no more

than a beginning. And if this beginning has put California in the lead, consider how laggard must be the efforts elsewhere, and how great a service you will perform by pressing on with your program.

Your subcommittee identified several matters to be pursued. Let me urge upon you the importance of each. First, *continuity of government.* This involves, of course, a line of succession—in the office of Governor, in the administrative departments, in the city and county governments and in other local units. An important step in this direction was your enactment of Sections 1550 and following to the Military and Veterans Code, to insure the "Preservation of Local Government."

Speaking generally—for certainly I do not presume to offer any particular prescription for California—governmental units need authority to carry on their functions extraterritorially. Cities in target areas should have alternate headquarters in some appropriate place, to which operations would be shifted in time of emergency. It should be possible for a city administration, operating in the field, to assemble and care for its own people pending their resettlement. City dwellers may not be left to roam over the countryside, like locusts, devouring the substance of those among whom they come. Their own city administration would be the normal means of caring for them. Legislation should provide, and preparations should be made, for the continued operation of cities in exile.

The continuity of the Legislature is an essential matter. Although in periods of emergency we must resort to administrative rule-making to an extent otherwise unknown, there remains the need for the Legislature to grant the broad powers on which the rule-making rests. Our traditions are strongly opposed to any theory of inherent power to govern by decree. More than that, we would need the representative body to speak on behalf of the people, to impose the sacrifices that would be necessary, to criticize, and to give moral authority to the conduct of government. It might be quite impracticable to fill vacancies in the Legislature by election. People would be scattered; some areas would have become uninhabitable; others would be filled by newcomers. In such circumstances the normal electoral processes would cease to be meaningful.

The preservation of records was the second concern to which your subcommittee drew attention. This is an important matter which will, no doubt, once more receive the Legislature's attention. It is a matter that divides into many branches, each running into a mass of detail. In a stranger it would be unbecoming to speak in more than general terms.

I was impressed with the testimony of the representative of the Department of Employment, at the hearings of your subcommittee, on the adaption of the records of that department to the requirements of manpower in an emergency. In America, unlike countries on the European mainland, there is no *etat civil*, no great register of the vital facts in the life of every citizen. Apparently the records of employment would be the most useful basis for dealing with the mass of displaced individuals and for finding workers to fill the jobs created by an emergency.

The preservation of probate records and of registers of titles to property should receive the Legislature's attention. The importance to

the individual is obvious. Such records are essential, too, to the operations of the State and of local government units: these governments would have to go on collecting taxes, and must know who are the owners of property. Further, such records would be essential to the functioning of corporations: who would be the owners of shares on the morrow of a nuclear attack?

The corporation is the device whereby the funds of a mass of investors are concentrated, under private management, for the production of goods and the rendering of services to the public. It is the corporation that makes possible the great system of private enterprise that is so pronounced a feature in our American life. When our economy is thus dominated by these private institutions, it follows that national survival is dependent upon their capacity to survive and to adapt themselves to new requirements. Here is a very large area of present national insecurity. How should it be approached? Each corporation might initiate its own study, to make sure that its management had an unbreakable chain of command; that its essential records of all sorts were secure; that its charter and bylaws would permit it to shift to the needs of war; that it kept appropriate stockpiles, etc. In a few corporations such preparations have been made; but this is, I fear, quite exceptional. What should be done? For a great state such as California to put its own house in order would set a conspicuous example for private industry. The Federal Government, as an incident to its contracting or in the exercise of the commerce and the war powers, might require that measures be taken. Thus far, however, no such far-sighted action has been taken by the government. Traditionally, it is the state that has granted charters and has regulated corporations. Insurance companies, notably, have been left to state inspection. An enterprising state, by its power of control and supervision as well as by its example, might cause the corporations within its reach to move in the direction of safeguarding records and otherwise preparing against a nuclear attack. A useful first step might be for the state to create a body to study and report what should be done—a body on which men experienced in corporate management as well as representatives of the public would sit. Such work, if well done, would be of inestimable value to the entire Nation.

The records of the physical plant of public utilities—water, electricity, gas and oil, transportation and communications—whether under public or private ownership, should be preserved at places secure against enemy action. They would be critically important for restoring service after an attack.

Your subcommittee addressed itself to the *continued operation of the judicial system*. This involves arrangements whereby the courts could sit at places and at times other than those now appointed by law. It involves authority to shift judges to courts other than their own, and to designate attorneys to sit as temporary judges. It involves a tolling of statutes of limitations, and a power to extend the normal periods within which steps must be taken. In the main these ends would best be attained by a statute vesting a large order- and rule-making power in the State's highest court. In 1956 the Massachusetts legislature widened the statute on superintendence of inferior courts by an amendment giving the Supreme Judicial Court a general super-

intendence, including authority to issue such orders, directions and rules as may be desirable for the furtherance of justice or for securing proper and efficient administration. The needs of war in this regard are akin to the peacetime need for making the administration of justice more rationale, more flexible and responsive to an evolving society.

A nuclear attack would make necessary the issuance of a mass of administrative directions under broad statutory grants. The enforcement of such directions would throw a large new burden upon the courts. There are many who believe that a nuclear attack would be followed by an outburst of lawless violence. Doubtless that is to be apprehended. I have been inclined to think, however, that the aspect of giving leadership to a people seeking safety was far more important than the aspect of punishing those who sought loot; that succor would be more in need than punishment. Be that as it may, very certainly an unfaltering, even-handed administration of criminal justice would do much to restore calm.

On the civil side of the law, the courts would have essential new functions. Business, finance and agriculture are carried on by contract. So too such homely transactions as the purchase of a house, of an automobile, of domestic appliances. A contract records a balance between the interests of the two parties. A nuclear attack would upset those balances and render contracts impossible of exact performance. Legislation would be imperative to deal with this dislocation. The courts would have a tremendous volume of business, applying this legislation to individual cases. More broadly, there would be many situations in which it would be necessary to authorize the courts to make determinations on the basis of which enterprises might be carried forward, notwithstanding the casualties and uncertainties of war.

We have in large measure retained the civil jury, notwithstanding widely-held doubts as to its social value. Considering the conditions that would obtain after an attack—the press of business, the dearth of jurymen, etc.—surely most litigation ought to be heard before a judge sitting without a jury. Means should be found—such as loading into the costs of the case the entire outlay for a jury trial—to enable all but the exceptional case to be tried to the judge alone. The country from which our judicial institutions were derived has much to teach us about adapting the administration of justice to the extremity of war. I refer to these acts of Parliament of 1939: Courts (Emergency Powers) Act, 2 and 3 Geo. 6, Ch. 67, and Administration of Justice (Emergency Provisions) Act, Ch. 78. You may be interested to note that, except in trials for treason or murder, or where the judge directed otherwise because of the gravity of the matter in issue, only seven jurors were required.

Perhaps the American Bar Association's Section of Judicial Administration, in its current study, will address itself to the organization of the courts in time of war. On the federal side, the Attorney General has laid the problem before the Judicial Conference. Each state must frame its own solutions to its peculiar problems—whether by study within its legislative committees, or by its judicial conference, or otherwise.

The maintenance of government under law calls for the maintenance of courts administering justice promptly and effectively.

May I speak, with diffidence and very generally, of the method by which these necessary measures may be undertaken. Some things, it will appear, may be achieved by administrative arrangements. Fortunately, California has the tradition of being a well-administered state with resourceful public servants. That is a tremendous asset.

As to some matters, what is first needed is study. This may be undertaken within the Legislature. The work of your subcommittee shows that it can be very well done. The co-operation of outside bodies—professional associations and the like—may be sought. Or an inquiry may be set up outside the Legislature.

Much legislation will be needed, and sometimes constitutional amendment. Our constitutions and our basic statutes were not framed in contemplation of an atomic peril; they do not speak directly to that problem. I would hope that constitutions and statutes will not be construed grudgingly or timorously. There is a grand old saying about construing the laws, a maxim that comes down from Celsus, a Roman jurist of nearly two millenniums ago: to know the laws is not to stick merely to their words, but to look to their force and power. *Scire leges non hoc est verba earum tenere, sed vim et protestatem.* Let the law be read with an eye to the great ends of law—than which none is higher than the preservation of the blessings of liberty. Lincoln—by nature a great lawyer however inadequate his training—expressed the same thought in homely metaphor: "By general law, life and limb must be protected, yet often a limb must be amputated to save a life; but a life is never wisely given to save a limb. I felt that measures, otherwise unconstitutional, might become lawful by becoming indispensable to the preservation of the Constitution through the preservation of the nation." In all our planning, let us assume confidently that there will be power to do whatever is necessary to preserve this Nation. If to make good that confidence there is need for legislation, let it be framed and enacted. If we must go to the people for constitutional amendments, let that be done. We have had amendments for matters of infinitely smaller moment. But in all that we do let us remember, with Lincoln, that if we are truly faithful to the law we will never sacrifice a life to save a limb.

"It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory * * *." That is from an opinion of Justice Brandeis, a patriot who had abiding faith in the ability of common men to achieve uncommon things. In the matter before us today, one courageous State may show the way, establishing a pattern for the Nation.

I make no bones about saying that there is a great need for more vigorous leadership in civil defense by the national administration. In the midst of all the pronouncements about maintaining armed forces, about scientific developments and weapons, there has been next to nothing about the measures to be taken to brace our own domestic institutions against an atomic blow. To be sure, about $10,000,000 was made available by Congress in 1955 for survival studies in the several states, under the guidance of the Federal Civil Defense Administration. The resulting survival plans are now nearing completion. That is very much to the good, so far as it goes. But the sort of guidance that

would make the people understand what is needed and how to attain it, has been completely lacking.

In Congress, the initiative was seized by Mr. Holifield and his colleagues in the House Subcommittee on Government Operations, to conduct hearings and frame legislation on Civil Defense for National Survival. I watched this effort from the start—with cautious hope; now I am happy to record my admiration. The hearings, in Washington and throughout the Country, were ably conducted and led to really useful findings. The work was truly bi-partisan. In the end all members of the subcommittee agreed upon a single measure, H. R. 2125 and companion bills, 85th Cong., 1st Sess. Whereas under the Act of 1951, responsibility for civil defense is vested in the states, with the Federal Government undertaking only "necessary co-ordination and guidance," the Holifield Bill would declare that "civil defense is an integral part of national defense and a direct responsibility of the Federal Government," at the same time recognizing "that the states and their political subdivisions have an important supporting role and should be assisted and encouraged to perform appropriate civil defense tasks * * *." Civil defense would be raised to be an executive department. The bill would create, what is badly needed, authority in time of emergency to "direct and supervise civil-defense operations of the states and the political subdivisions." I repeat, every member of the subcommittee, Republicans and Democrats, joined in the measure. It expressed what they had learned from rigorous questioning of witnesses and looking hard at the facts.

The administration threw cold water on this bi-partisan measure. It put forward, instead, H. R. 7576, to amend the Federal Civil Defense Act by vesting responsibility "jointly" in federal and state governments. The bill looks to greater federal aid to the states. But it does not provide a power in time of war to direct civil defense operations throughout the Nation—a power which I believe to be indispensable. The administration's bill would leave civil defense as an agency rather than making it a department. This measure was passed by the house at the last session, and now awaits action in the Senate.

So far as the responsibility of the State Legislatures is concerned, this account of what goes on in Washington is of less real moment than one might suppose. In any event, inescapably, it is you and only you that can put the institutions of the State in a position of readiness. The Federal Government, even if it rose to the full height of its responsibility, could not amend your Constitution or strengthen your laws. Only you can assure continuity in the state and local offices; only you can assure the perpetuation of your Legislature; only you can make sure that your courts would function effectively. The National Government should have given you guidance; the entire populace should have been made aware of what is needed; your task in this Legislature might have been more plain; but it would still have been your task.

We hear much talk nowadays about state rights having been lost in federal centralization. Here is one duty that has been left right on the state's doorstep. Let us see what the states will do about it.

I should say something of the relation of the armed forces to our problem. The services are, of course, voracious about funds for the development of weapons. They press ahead, as of course they should, to

maintain a deterrent power against the Soviet threat. In this appeal for funds there tends to arise an implication, and in our hearts a hope, that if we give the services the money, they will deter the enemy and somehow keep us from being hit. Now if we are candid with ourselves, this appears wishful thinking. It is by no means certain that our defense, however adequate, will deter attack. Who can say what might happen from the irresponsibility of a dictatorship or even from some tragic slip. It is basic on our side—as is right—that we will never start a war. By assumption, if it comes we must absorb the first blow. So while, willingly and hopefully, we pour out our substance for the armed forces, let us not fall into the error of supposing that military strength can make needless the measures I have been urging upon you.

Another remark about the armed forces, and in particular the Army. There is no method whereby the Army could, in case of attack, "take over" and do for us the work of saving ourselves. A military administration of the Country is simply out of the question. The Army is not trained for such a task: soldiers are not the ones to govern a free people. It would be a mistake of the first order to count on such a course of action; it would be a tragedy if it ever came to pass. The armed forces are not planning for any such mission. Every member of the Joint Chiefs of Staff appeared before the Holified Subcommittee. Read their testimony: they made it clear that the administration of the Country was not in their line of business. They were not prepared to give any firm commitment even on lending aid after an attack, as by making supplies available or otherwise. They are not assuming any responsibility for the government of the Country.

I assure you, on the basis of very close examination of this problem, that a military administration of the American people, even for a moment after a nuclear attack, is an utterly inappropriate—indeed, an impossible, mode of action, and that the Army has no intention of undertaking it.

Our task, then, is to prepare civil government for carrying on: that is entirely a *civil* problem. Responsibility rests squarely upon the several states, and particularly upon their legislatures. Leadership from Washington is needed, but in any event it could not do those things which at bottom are your own task. Action within the units of local government is necessary, but cannot go far without your action. In this matter of the impact of atomic attack upon the fabric of government, it is the state legislatures that hold the key. There is confusion about what ought to be done. The people have not been informed, and do not comprehend their peril. This is not a popular issue on which politicians can easily garner votes. Men of character and foresight may, however, prove their leadership by explaining to the people what is needed for the common defense, and by taking effective action for the public safety.

Here in the California Legislature you have made an excellent beginning. You have taken the lead. In going forward you may worthily take to yourselves what Paul counselled the Ephesians: Put on the whole armor, for you are contending against the world-rulers of this present darkness. Take the whole armor, that you may be able to withstand in the evil day, and having done all, to stand. To that end, keep alert with all perseverance.

APPENDIX 3

CALIFORNIA CONSTITUTIONAL PROBLEMS IN A NUCLEAR ATTACK DISASTER

Report of the Special Committees of the Los Angeles Bar Association and the State Bar Association

INTRODUCTION

Should there be a next war it is assumed that each side will attack the other's civilian population. Looking at the governmental structure of the State of California it is easy to see how a few well placed bombs could leave California citizens without any State Government and without any rapid means of getting one. Suppose, for example, that the Legislature was in session in Sacramento and the Governor and other constitutional officers were likewise in the Capitol building. The State Government could be left as follows:

1. The Governor and all other officers in the constitutional line of succession to Governor would be killed. The senior deputy Secretary of State would also be killed.

2. Enough Members of the Legislature would be killed so that there would be no quorum.

3. Sacramento could not be used as the seat of government and county seats could not be used.

Some think "when the 'real thing' comes the Army will have to 'take over' "—that a "dictator * * * backed by martial law, would be the only solution * * *." But the Army feels that "they have got enough to do as it is * * *" and "do not like to take on these responsibilities * * *" but "They cannot escape being forced to act * * *. The failure of * * * the people to understand the danger * * * is incomprehensible. * * *"[1]

"* * * the universal need on the morrow of a nuclear attack would be to reassure, to inspire, to lead and give direction to the stricken people. For the long pull toward restoration, the people will respond far more willingly to civil leaders than to Army officers. In the workings of our civil government, laws come down but the impulses that cause the laws to be made come up from the people. In military administrations, commands go down but there is no great current of popular control going up. This unavoidable characteristic of military administration is a cogent reason why it is utterly unsuited to the restoration of the American people after a nuclear attack."[2]

Studies show that familiar institutions are important in recovery from a disaster.[3] Martial law is certainly not a familiar institution in our Country. The interference with customary rights and legal proc-

[1] Charles Fairman "Government Under Law in Time of Crisis," pages 108, 110 and 111.
[2] Dr. Charles Fairman in his testimony before the subcommittee chaired by Congressman Chet Holifield. Reprinted in Volume 13, California Assembly Interim Committee Reports, 1955-1957, No. 10, page 13.
[3] "If H-Bombs Fall," Donald Robinson—The Saturday Evening Post, May 25, 1957.

esses which seem to be inherent in martial law could quickly become intolerable.[4]

State Government is important. It is the source of most of the laws under which we live. Through the State and the local agencies which exist to carry out its policies (counties, cities and counties, cities, authorities and other public corporations and districts) those laws are administered so that the public peace, health and safety can be secured. Every day we see police officers enforcing state laws. Every day many of us receive services such as water, sewers, and electricity that are furnished by agencies formed under the State.

If our Country is to survive as a Nation, war-caused disasters will have to be handled at the state and local levels.[5] The Governor may have to use the militia to preserve order in the areas hardest hit. Local police, fire and other forces will have to be regrouped as fast as possible. Water, sewer, electricity and other services must be resumed. In short, civil government must be kept going, if possible, and if temporarily suspended, must be restored quickly. Soldiers are trained to fight wars. "* * * It is simply not possible to pretrain military administrators in the many and diverse techniques of government which are second nature to experienced, responsible civilian officials * * *."[6] We must depend upon our civilian leaders.

Since civilian government is so important to American life its existence should not be left open to doubt. It should not be left to well-meaning volunteers. While it is possible that finally a de facto government might be sustained, its form and existence certainly could be questioned. The mere fact that its validity could be questioned would weaken the case against the imposition of martial law or getting it withdrawn.

Advance planning to assure the continuation of civil control should help in preventing martial law or getting it withdrawn if it were imposed.[7]

The constitutional structure of our State Government must be examined and bolstered where necessary so that as far as humanly possible the preservation and operation of the State Government after an

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[4] Fessenden, "Martial Law and the State of Siege," 30 Cal. L. R. 634; Anthony Garner, "Martial Law in Hawaii," 30 Cal. L. R. 371 and 600; "Martial Law, Military Courts and the Writ of Habeas Corpus in Hawaii," 31 Cal. L. R. 477; Walter Armstrong "Martial Law in Hawaii," 29 A. B. A. J. 698.

[5] This also seems to be the present thinking of the U. S. Government. H. R. 2125 introduced by Congressman Chet Holifield provides for a Department of Civil Defense headed by a Secretary of Cabinet status. "He would be authorized, if necessary, to assume control of any state or local government. The duly elected or appointed chief executive of the state or local government would decide when a breakdown of civil government under his jurisdiction required the federal authority to take over * * * it is quite apparent from the language of H. R. 2125 that the federal officials vastly prefer existing state and local governments to stay viable and functioning, if for no other reason, thus to reduce the total burden on the federal agency. Projecting ourselves into the post-nuclear attack emergency, it becomes readily apparent that the total demands on every part of our social and governmental organization will be at an absolute maximum, calling in turn for the maximum contribution each unit of the structure can make to the common good." Vol. 13, California Assembly Interim Reports No. 17, pages 12, 13.

[6] Vol. 13, California Assembly Interim Committee Reports, supra, No. 17, page 13.

[7] Homer Crotty "Administration of Justice and the H-Bomb," 37 A. B. A. J. 893.
Recently we have observed the difficulty in securing the removal of federal troops stationed in Little Rock, Arkansas. The tragedy does not even approach in seriousness the situation which would result from nuclear attacks against our large cities. The Hawaiian and Little Rock experiences show that it will be very difficult to prevent the use of federal troops after an atomic attack and to secure their withdrawal.

attack by nuclear weapons will be assured. This alone will be a strong deterrent to war.[8]

A. Governor

It is vital that this office be filled, because the Governor has power to fill other vacancies if the mode is not provided in the Constitution (Art. V, Sec. 8). For example, the Governor fills judicial vacancies, see Art. VI, Secs. 3, 4a, and 8. Thus, assuring the filling of the Office of Governor assures the manning of the executive and judicial branches of our State Government. The Governor also has power to convene the Legislature (Art. V, Sec. 9).

The order of succession to the Office of Governor is set forth in Section 16 of Article V as follows:

Lieutenant Governor;
President pro Tempore of the Senate;
Speaker of the Assembly;
Secretary of State;
Attorney General;
Treasurer;
Controller.

The section was last amended in 1948. Prior to that time it was provided that:

> "In case of a vacancy in the Office of Governor, the powers and duties of the office *shall devolve upon* the Lieutenant Governor for the residue of the term. * * *" (Emphasis added.)

Under this language a Lieutenant Governor acted as Governor, but was still Lieutenant Governor, *People* v. *Budd*, 114 Cal. 168 (1896). The 1948 amendment changed this saying:

> "* * * the Lieutenant Governor shall become Governor * * *."

But as to the other constitutional officers, the word "devolve" is still used, and the *Budd* case is still controlling.

It is possible that one of these constitutional officers in the line of succession would be out of the State or in a safe place and would survive the attack. Under the reasoning of the *Budd* case, for example, should the last officer in the line of succession, i.e., the Controller, survive, he would only be acting governor, not the Governor, and he could not appoint any persons in the line of succession prior to him because by so doing he would appoint himself out of office.

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[8] "Our great need today is so to organize and concert our preparations that if an attack came, the Country would hold firm and carry on. The maintenance of effective civil government is at the heart of the problem * * *.

"* * * insofar as we really make adequate preparations, we have created a strong *deterrent* to war. This aspect is familiar in maintaining large armed forces in being—we trust that by so doing we may avert a war. So, too, surely, with shoring up our government and administration, our industry and finance, our community life; in preparing to withstand a blow, we make it less attractive to strike. * * *

"So long as one is urged merely to prepare for one's own survival in an event one never looks squarely in the face, self-consciousness and disbelief discourage compliance. If we could be brought to realize that there are things we can do now in every community actually to deter a war by making our internal strength notoriously adequate—*that* appeal should inspire willing exertions." Charles W. Fairman, supra, reprinted in Vol. 13, California Assembly Interim Committee Reports, No. 17, page 6.

It is therefore recommended that Section 16 of Article V be amended to eliminate the "devolve" language that was not changed by the 1948 amendment. Those in the line of succession should "become" Governor. The effect is the same since those on whom the Governor's duties have "devolved" for the residue of the term "receive the salary and perquisites of Governor." They might as well be Governor and not hold down two offices at the same time.

The wholesale destruction in an atomic attack makes it possible that the Governor and all in the line of succession could be killed. Art. V, Sec. 16, provides that:

> "In any case in which a vacancy shall occur in the Office of Governor, and provision is not made in this Constitution for filling such vacancy, the senior deputy Secretary of State shall convene the Legislature by proclamation to meet within eight days after the occurrence of the vacancy in joint convention of both houses at an extraordinary session for the purpose of choosing a person to act as Governor until the office may be filled at the next general election appointed for election to the Office of Governor."

In the Legislature, however,

> "A majority of each house shall constitute a quorum to do business * * *." (Art. IV, Sec. 8.)

If enough Members of the Legislature were killed so that there would not be a quorum there might be no method of choosing a Governor except by an election (Art. V, Sec. 2), which would leave a State Government in serious condition for some time.

Therefore, to assure the filling of the Office of Governor it is necessary that the line of succession be lengthened in some manner. The best recommendation so far has been to provide for standby Governors who live at diversified points within the State. This increases the likelihood of survivorship. It is unwise, however, to freeze any particular provision into the Constitution since some new, better solution may be proposed as studies continue. It is recommended that Section 16 be amended so that if as a result of a war-caused disaster there be none of those offices specifically set forth in said section, then the Governor shall be such person designated as provided by law.

Even with Section 16 amended as heretofore set forth it still will not provide for the situation in which the Governor is killed and the surviving designated successor to the Office of Governor is missing or so seriously injured so as to be unable to perform the duties. This situation, however, would probably only arise as the result of a war-caused disaster. It does not call for a lengthening of Section 16. It is taken care of by the general amendment which empowers the Legislature to enact other necessary provisions.

B. Lieutenant Governor

He is likewise elected (Art. IV, Sec. 15) and is President of the Senate. There is no mode of filling a vacancy in this office set forth in the Constitution, but under the provisions of Section 8 of Article V, the Legislature can provide a mode for filling such vacancy, *People* v. *Nye*, 9 Cal. App. 148 (1908), or the Governor can appoint under

said Section 8. Thus, no constitutional amendment is needed for this office, but legislation should be drafted.

C. Constitutional Officers

These (Secretary of State, Controller, Treasurer, Attorney General) important state officers are likewise elected (Art. V, Sec. 17), and like the Lieutenant Governor the Legislature can provide a mode for filling vacancies. It has done so. Government Code Section 1775 provides that the vacancy is filled by appointment by the Governor for the balance of the unexpired term. No constitutional amendment is needed for these officers, but Government Code Section 1775 should be revised to provide a line of succession for each office.

D. Legislature

Assemblymen and Senators are elected. (Art. IV, Sec. 3, Sec. 4.) Vacancies are filled only by election. (Art. IV, Sec. 12.) Since a majority of each house constitutes a quorum to do business (Art. IV, Sec. 8), it is possible that as the result of a war-caused disaster there would be no Legislature until elections. The constitutional amendment corrects this by allowing the Legislature to provide by law for the filling of these offices temporarily.

In an atomic disaster of the assumed magnitude, it would be essential that there be a Legislature in session with the power to enact ameliorating laws. It is unlikely that an atomic attack would coincide with a general legislative session. No doubt an extraordinary session would be required. Such sessions are convened by the Governor by proclamation. (Art. IV, Sec. 2.) On this subject Art. V, Sec. 9 states:

> "He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto."

This restricts the power of convening the Legislature to the Governor and places a severe burden upon him to include all matters in his call. The constitutional amendment empowers the Legislature to provide an alternative method of convening the Legislature into general or extraordinary session.

E. Elections

The election of Members of the Legislature, Governor and other constitutional officers takes place at regular intervals. The basic provision is Art. IV, Sec. 3, which states:

> "Members of the Assembly shall be elected in the year 1879, at the time and in the manner now provided by law. The second election of Members of the Assembly after the adoption of this Constitution shall be on the first Tuesday after the first Monday in November, 1880. Thereafter, Members of the Assembly shall be

chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature."

The last phrase "unless otherwise ordered by the Legislature" must be construed to allow only the particular date of the election to be changed. Any other construction would allow the Legislature to change the terms of office.

Members of the Assembly, then, are elected every two years. (Art. IV, Sec. 3.) Senators are elected every four years "at the same time and places as Members of the Assembly." (Art. IV, Sec. 4.) The Governor is elected every four years "at the time and places for voting for Members of the Assembly." (Art. V, Sec. 2.) The Lieutenant Governor and the other constitutional officers are elected at the same time, places and manner as the Governor. (Art. V, Secs. 15, 17.)

Vacancies in the Legislature are filled by election. (Art. IV, Sec. 12.)

> "When vacancies occur in either house, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies."

As has been shown by Paragraph D "Legislature" it might not be practical to hold elections immediately after a war caused disaster, thus paralyzing the Legislature for lack of a quorum. The constitutional amendment will empower the Legislature to provide by law for a means of filling vacancies in its membership temporarily. The line of succession of Governor is set forth in Art. V, Sec. 16. This will be lengthened by a constitutional amendment. The successor Governor, however, serves for the residue of the term. It is possible that someone could become Governor in the crisis following a war caused disaster who would have very little popular support. It might be considered wise to elect a new Governor as quickly as possible. Accordingly, the amendment empowers the Legislature to provide for the calling and holding of elections to fill offices which are elective under the Constitution. This will assure that control of the State Government will be in the people where it belongs.

F. Seat of Government

Art. XX, Sec. 1 provides:

> "The City of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general state election, under such regulations and provisions as the Legislature, by a two-thirds vote of each house, may provide, submitting the question of change to the people."

Sacramento might not be available. The constitutional amendment empowers the Legislature to provide for a temporary seat of government.

G. *Local Governments*

1. **County Seats.** Art. XI, Sec 2 provides:

> "No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years."

Such county seats might not be available. The constitutional amendment empowers the Legislature to provide for temporary county seats.

2. **Preservation of Local Governments.** Local governments are provided for by general laws (Art. XI, Sec. 6). Charters can be enacted for counties (Art. XI, Sec. 7½) and cities (Art. XI, Secs. 8, 8½). A law to preserve local government has already been adopted. It provides (Military and Veterans Code, Sec. 1550):

> "The Legislature finds and declares that the preservation of local government in the event of a disaster is a matter of statewide concern."

This true statement brings the law within the rule of *Cunningham* v. *Hart,* 80 Cal. App. 902 (1947) and *Shean* v. *Edmonds,* 89 Cal. App. 2d 315 (1948) that laws passed by the Legislature are controlling in the realm of municipal affairs when the subject matter of the legislation is of statewide concern. No constitutional amendment is necessary.

The following persons served on the special committees of the State Bar Association and the Los Angeles Bar Association:

Harry P. Amstutz
James W. Beebe
Barry Brannen
Clair A. Carlson
Thomas A. Carver
R. Bradbury Clark
Henry N. Cowan
Samuel J. Crawford
James H. Denison
John Dundas
Frederick G. Dutton
Wendell T. Fitzgerald
Max K. Jamison
Walter F. Keen
Frank L. Mallory
Edwin P. Martin
T. Paul Moody
Richard H. Peterson
Harry Rabwin
Jean Daze Ratelle
George R. Richter, Jr.
Glenn S. Roberts
Kenwood B. Rohrer
John R. Saldine
Benjamin W. Shipman
Raymond G. Stanbury

APPENDIX 4

ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 5

Adopted in Assembly April 7, 1958; Adopted in Senate April 2, 1958

CHAPTER 26

Assembly Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State of California by adding Section 38 to Article IV thereof and by amending Section 16 of Article V thereof, relating to state and local government, authorizing the Legislature to enact laws for the preservation of government in the event of war or enemy-caused disaster, and providing for succession to the Office of Governor.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1958 First Extraordinary Session, commencing on the fourth day of March, 1958, two-thirds of all the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That Section 38 be added to Article IV thereof, to read:

SEC. 38. Nothing in this Constitution shall limit the power of the Legislature to provide by law at any time for:

(a) The filling of the offices of members of either house of the Legislature and Governor should the incumbent Governor or at least one-fifth of the incumbent members of either house of the Legislature as a result of a war or enemy-caused disaster occurring in the State of California be either killed, missing or so seriously injured as to be unable to perform their duties until said incumbent or incumbents are able to perform their duties or until successors are chosen.

(b) The convening of the Legislature into general or extraordinary session during or after a war or enemy-caused disaster occurring in this State, and to specify subjects that may be considered and acted upon at any such extraordinary session. At any such general session the Legislature may consider and act upon any subject within the scope of legislative regulation and control. Nothing in this Constitution limiting the length of general or budget sessions, or requiring a recess thereof, or restricting the introduction of bills shall apply to general sessions convened pursuant to this section.

(c) The calling and holding of elections to fill offices that are elective under this Constitution and which, as a result of a war or enemy-caused disaster occurring in this State, are either vacant or are being filled by persons not elected thereto.

(d) The selection and changing from time to time of a temporary seat of government of this State, and of temporary county seats, to be used, if made necessary by enemy attack.

Second—That Section 16 of Article V thereof be amended to read:

SEC. 16. In case of vacancy in the Office of Governor the Lieutenant Governor shall become Governor and the last duly elected President pro Tempore of the Senate shall become Lieutenant Governor, for the residue of the term; but, if there be no such President pro Tempore of the Senate, the last duly elected Speaker of the Assembly shall become

Lieutenant Governor for the residue of the term. In case of vacancy in the Office of Governor and in the Office of Lieutenant Governor, the last duly elected President pro Tempore of the Senate shall become Governor and the last duly elected Speaker of the Assembly shall become Lieutenant Governor, for the residue of the term; or if there be no President pro Tempore of the Senate, then the last duly elected Speaker of the Assembly shall become Governor for the residue of the term; or if there be none, then the Secretary of State; or if there be none, then the Attorney General; or if there be none, then the Treasurer; or if there be none, then the Controller; or if, as the result of a war or enemy-caused disaster, there be none, then such person designated as provided by law. If at the time this amendment takes effect a vacancy has occurred in the Office of Governor or in the Offices of Governor and Lieutenant Governor, within the term or terms thereof, the provisions of this section as amended by this amendment shall apply. In case of impeachment of the Governor or officer acting as Governor, his absence from the State, or his other temporary disability to discharge the powers and duties of office, then the powers and duties of the Office of Governor devolve upon the same officer as in the case of vacancy in the Office of Governor, but only until the disability shall cease.

In case of the death, disability or other failure to take office of the Governor-elect, whether occurring prior or subsequent to the returns of election, the Lieutenant Governor-elect shall act as Governor from the same time and in the same manner as provided for the Governor-elect and shall, in the case of death, be Governor for the full term or, in the case of disability or other failure to take office, shall act as Governor until the disability of the Governor-elect shall cease.

In case of the death, disability or other failure to take office of both the Governor-elect and the Lieutenant Governor-elect, the last duly elected President pro Tempore of the Senate, or in case of his death, disability, or other failure to take office, the last duly elected Speaker of the Assembly, or in case of his death, disability, or other failure to take office, the Secretary of State-elect, or in case of his death, disability, or other failure to take office, the Attorney General-elect, or in case of his death, disability, or other failure to take office, the Treasurer-elect, or in case of his death, disability, or other failure to take office, the Controller-elect shall act as Governor from the same time and in the same manner as provided for the Governor-elect. Such person shall, in the case of death, be Governor for the full term or in the case of disability or other failure to take office shall act as Governor until the disability of the Governor-elect shall cease.

In any case in which a vacancy shall occur in the Office of Governor, and provision is not made in or pursuant to this Constitution for filling such vacancy, the senior deputy Secretary of State shall convene the Legislature by proclamation to meet within eight days after the occurrence of the vacancy in joint convention of both houses at an extraordinary session for the purpose of choosing a person to act as Governor until the office may be filled at the next general election appointed for election to the Office of Governor.

At such a session the Legislature may provide for the necessary expenses of the session and other matters incidental thereto.

APPENDIX 5

ASSEMBLY BILL NO. 76

Passed the Assembly March 25, 1958; Passed the Senate April 2, 1958

CHAPTER 65

An act calling a special election to be consolidated with the general election of 1958 and to provide for the submission to the electors of the State at such consolidated election of constitutional amendments proposed by the Legislature at the 1958 First Extraordinary Session, to take effect immediately.

The people of the State of California do enact as follows:

SECTION 1. A special election is hereby called to be held throughout the State on the fourth day of November, 1958. Said special election shall be consolidated with the general election to be held on the same date. Such consolidated election shall be held and conducted in all respects as if there were only one election and only one form of ballot shall be used. At such consolidated election there shall be submitted to the electors, in addition to such other measures as may be submitted in accordance with law, all constitutional amendments proposed by the Legislature at the 1958 First Extraordinary Session. Except as otherwise provided in this act all of the provisions of law applicable to the submission of constitutional amendments proposed by the Legislature and to arguments for and against such measures shall apply to the measures submitted pursuant to this act.

SEC. 2. Within five days after final adjournment of the 1958 First Extraordinary Session, the author of any constitutional amendment submitted at that session and one member of the opposite house who voted with the majority on the amendment, shall be appointed by the presiding officers of the respective houses to draft the argument for the adoption of the measure. If such a constitutional amendment was not adopted unanimously by the house in which it was introduced, one member of that house, who voted against it, shall be appointed by the presiding officer of that house to write an argument against the measure. If there was no negative vote on the measure in the house in which it was introduced, the presiding officer of that house shall appoint some qualified person to draft an argument against the measure. No argument shall exceed 500 words. All such arguments shall be filed with the Secretary of State on or before June 3, 1958.

SEC. 3. Upon the effective date of this act the Secretary of State shall request the Attorney General to prepare a ballot title for the measures submitted pursuant to this act and shall also request the Legislative Counsel to prepare an analysis of said measures in accordance with Section 1509.7 of the Elections Code. Said title and said analysis shall be filed with the Secretary of State within 10 days after the effective date of this act. The measures submitted pursuant to this act shall be designated on the ballots at the election by their ballot title.

SEC. 4. This act, inasmuch as it provides for the calling of an election, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

APPENDIX 6

CALIFORNIA LEGISLATURE—1958 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL No. 66

Introduced by Messrs. Kilpatrick, Miller, Sumner, and Beaver

March 14, 1958

REFERRED TO COMMITTEE ON MILITARY AND VETERANS AFFAIRS

An act to add Chapter 7 (commencing with Section 12700) to Part 2 of Division 3 of Title 2 of the Government Code, relating to succession to the Offices of Lieutenant Governor, Secretary of State, Attorney General, Treasurer and Controller in the event of war or enemy caused disaster.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 is added to Part 2 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 7. SUCCESSION TO CONSTITUTIONAL OFFICES IN THE EVENT OF WAR OR ENEMY-CAUSED DISASTER

12700. As used in this section "disaster" means a war or enemy-caused calamity such as an attack by nuclear weapons which renders unavailable the Lieutenant Governor, Attorney General, Secretary of State, Treasurer or Controller. "Unavailability" means that any such officer is either killed, missing or so seriously injured as to be unable to perform his duties.

12701. As soon as practicable after the effective date of this chapter, and thereafter as soon as practicable after his election and qualification to office, each of the constitutional officers named in Section 12700 shall appoint and designate by filing with the Secretary of State the names of _____ citizens otherwise qualified to become candidates to the office as their respective successors in the event that such officer is unavailable as a result of disaster. Any such appointee may be replaced by the appointing officer at any time and for any reason. The appointees of the Attorney General may include persons holding the office of Assistant Attorney General. The appointees of the Controller, Secretary of State and Treasurer may include persons holding office as their deputies or assistants.

In making appointments each constitutional officer shall give consideration to the places of residence and employment of his appointees so that for each office for which appointments are made there shall be the greatest probability of survival of some or all of the appointees.

Each person appointed as provided in this section shall deliver to the Secretary of State within _____ days after his appointment a written declaration under oath that he accepts the appointment and that he will faithfully perform the obligations imposed upon him thereby.

12702. If any constitutional officer who has appointed successors as provided in this chapter becomes unavailable because of a disaster, the powers and duties of his office shall devolve upon one of his appointees in the order which he specifies in the event that such person declares that he is undertaking the duties of the office and takes and subscribes the oath therefor, except that any appointee so designated may declare that he is undertaking the office and take the prescribed oath if no person prior in such order of succession enters upon the office within _____ days after it becomes vacant.

12703. Any such person shall, while holding the office, be known as Acting Lieutenant Governor, Acting Attorney General, Acting Secretary of State, Acting Treasurer and Acting Controller, as the case may be, and shall perform the duties of the office and receive the salary and perquisites thereof while so serving, but shall not be deemed to hold that office within the meaning of Section 16 of Article V of the Constitution relating to succession to the governorship. Each such acting constitutional officer shall continue to serve as such until the disabled officer resumes his office, or a person prior in the order of succession declares that he is undertaking the office and takes the oath therefor, or until the office is filled at the next election that is held for that office and a person is elected and qualifies for the particular constitutional office.

APPENDIX 7

ASSEMBLY BILL NO. 67

Passed the Assembly April 9, 1958; Passed the Senate April 7, 1958

CHAPTER 75

An act to add Article 2.5 (commencing with Section 9035) to Chapter 1 of Division 2 of Title 2 of the Government Code, relating to convening of sessions of the Legislature during or after a disaster in this State resulting from enemy or war-caused action.

The people of the State of California do enact as follows:

SECTION 1. Article 2.5 is added to Chapter 1 of Division 2 of Title 2 of the Government Code, to read:

Article 2.5. Legislative Session After War or Enemy-caused Disaster

9035. As used in this article, "disaster" means a war or enemy-caused calamity within this State, such as an attack by nuclear weapons.

9036. If a disaster occurs, the Legislature shall convene itself in extraordinary session immediately after such disaster first occurs, which session shall convene at the permanent seat of government in the City of Sacramento or at the temporary seat of government as established by law if the session cannot be held in the City of Sacramento. At such extraordinary session the Legislature may fill any vacancies in its membership, pursuant to law, and may consider and act upon any subject of legislation that is designed to relieve or alleviate the consequences of such disaster or to restore or continue state and local government in connection therewith, together with such other subjects within the scope of legislative regulation or control as are specified by concurrent resolution adopted by both houses of the Legislature.

9037. At any time after such convening the Legislature may convene itself in general session by the adoption of a concurrent resolution by both houses of the Legislature providing for the holding of a general session.

The Legislature may consider and act upon any subject within the scope of legislative regulation and control at such general session. The concurrent resolution may provide that all measures introduced or acted upon at the regular session shall be deemed introduced at the general session authorized by this section and that they shall have the same status at the general session as they had in the regular session as of the date on which the general session is convened as provided by this section.

None of the provisions of Article IV of the State Constitution relating to length of general sessions, or requiring a recess thereof, or imposing restrictions upon the introduction or action upon bills shall apply to general sessions convened pursuant to this section.

9038. If the Legislature is convened in extraordinary or general session pursuant to this article on the date specified by the State Constitution for the convening of a regular session, the Legislature may convene in such regular session without adjourning the general or extraordinary session or it may either call a general session to act upon as provided in Section 9037 or, if in general session may provide by concurrent resolution that the subjects to be considered at the regular session may be acted upon at the general session, and in such case the regular session shall not be convened.

SEC. 2. This act shall not become operative unless and until the people approve the constitutional amendment of the 1958 Extraordinary Session adding Section 38 to Article IV of the Constitution of this State.

APPENDIX 8

ASSEMBLY BILL NO. 68

Passed the Assembly April 7, 1958; Passed the Senate April 2, 1958

CHAPTER 60

An act to add Section 9004 to the Government Code, relating to Members of the Legislature.

The people of the State of California do enact as follows:

SECTION 1. Section 9004 is added to the Government Code, to read:

9004. When the Legislature convenes or is convened in regular or extraordinary session during or following a war or enemy-caused disaster and vacancies exist to the extent of one-fifth or more of the membership of either house caused by such disaster, either by death, disability or inability to serve, the vacancies shall be temporarily filled as provided in this section. The remaining members of the house in which the vacancies exist, regardless of whether they constitute a quorum of the entire membership thereof, shall by a majority vote of such members appoint a qualified person as a pro tempore member to fill each such vacancy. The Chief Clerk of the Assembly and the Secretary of the Senate or the persons designated to performed their duties, as the case may be, shall certify a statement of each such appointment to the Secretary of State who shall thereupon issue commissions to such appointees designating them as pro tempore members of the house by which they were appointed.

The appointments shall be so made that each assembly or senatorial district in which a vacancy exists shall be represented, if possible, by a pro tempore member who is a resident of that district and a registered elector of the same political party as of the date of the disaster as the last duly elected member from such district.

Where an elected member is temporarily disabled or unable to serve, such elected member shall resume his office when able, and the pro tempore member appointed in his place under this section shall cease

to serve. In other cases, each pro tempore member appointed under this section shall serve until the next election of a member to such office as provided by law.

SEC. 2. This act shall not become operative unless and until the people approve the constitutional amendment of the 1958 First Extraordinary Session adding Section 38 to Article IV of the Constitution of the State.

APPENDIX 9

ASSEMBLY BILL NO. 69

Passed the Assembly March 27, 1958; Passed the Senate April 2, 1958

CHAPTER 61

An act to amend Section 450 of the Government Code, relating to the seat of government of this State, and providing for a temporary seat of government for use in case of war or enemy-caused disaster.

The people of the State of California do enact as follows:

SECTION 1. Section 450 of the Government Code is amended to read:

450. The permanent seat of government of the State is at the City of Sacramento, but the Governor shall designate by written proclamation an alternative temporary seat of government for use in the event of war or enemy-caused disaster, or the imminence thereof. The proclamation shall be filed with the Secretary of State. A different temporary seat of government may be so designated at any time as circumstances indicate the desirability of such a change.

The Director of Finance, and any other state agency as directed by him, shall provide such facilities of any kind at the temporary seat of government as appear desirable for the functioning of the government of the State at the temporary seat of government in the event it becomes necessary, pursuant to this section.

SEC. 2. This act shall not become operative unless and until the people approve the constitutional amendment of the 1958 First Extraordinary Session adding Section 38 to Article IV of the Constitution of the State.

APPENDIX 10

ASSEMBLY BILL NO. 70

Passed the Assembly April 10, 1958; Passed the Senate April 10, 1958

CHAPTER 87

An act to amend Section 23600 of the Government Code, relating to county seats, and providing for temporary county seats for use in case of war or enemy-caused disaster.

The people of the State of California do enact as follows:

SECTION 1. Section 23600 of the Government Code is amended to read:

23600. The county seats of the respective counties of the State, as fixed by law and designated in this article, are declared to be the county seats of the respective counties. In any case where a county seat is an incorporated city, it includes all territory heretofore or hereafter annexed thereto.

The board of supervisors shall designate by resolution an alternative temporary county seat, which may be outside the boundaries of the county, for use in the event of war or enemy-caused disaster, or the imminence thereof, but real property outside the boundaries of the county shall not be purchased by a county for use as a temporary county seat. A copy of the resolution shall be filed with the Secretary of State. A different temporary county seat may be so designated at any time as circumstances indicate the desirability of such a change.

The board, and any county officer or agency as directed by the board, shall provide such facilities of any kind at the temporary county seat as appear desirable for the functioning of the government of the county at the temporary county seat in the event that it becomes necessary, pursuant to this section.

SEC. 2. This act shall not become operative unless and until the people approve the constitutional amendment of the 1958 First Extraordinary Session adding Section 38 to Article IV of the Constitution of the State.

APPENDIX 11

ASSEMBLY BILL NO. 72

Passed the Assembly March 25, 1958; Passed the Senate April 1, 1958

CHAPTER 42

An act to amend Section 1550.04 of the Military and Veterans Code, relating to the preservation of local government.

The people of the State of California do enact as follows:

SECTION 1. Section 1550.04 of the Military and Veterans Code is amended to read:

1550.04. The qualifications of each standby officer shall be carefully investigated and a summary of the qualifications of each such officer

shall be entered on the minutes when he is appointed. Each prospective appointee to a post of standby officer shall be examined as to his qualifications under oath.

The legislative body may request the Director of the California Disaster Office to aid in the investigation of any prospective appointee in the manner provided in this section. No examination or investigation shall be made without the consent of the prospective appointee.

Consideration shall be given to places of residence and work, so that for each office for which standby officers are appointed there shall be the greatest probability of survivorship.

APPENDIX 12

ASSEMBLY BILL NO. 71

Passed the Assembly March 29, 1958; Passed the Senate April 2, 1958

CHAPTER 62

An act to repeal Section 4362 of the Labor Code, relating to workmen's compensation.

The people of the State of California do enact as follows:

SECTION 1. Section 4362 of the Labor Code is repealed.

APPENDIX 13

ASSEMBLY BILL NO. 75

Passed the Assembly March 30, 1958; Passed the Senate April 7, 1958

CHAPTER 64

An act to amend Section 1509.7 of the Military and Veterans Code, relating to the powers and duties of peace officers employed by state agencies in the event of disasters.

The people of the State of California do enact as follows:

SECTION 1. Section 1509.7 of the Military and Veterans Code is amended to read:

1509.7. (a) Each department, division, bureau, board, commission, officer and employee of this State and of each agency, political subdivision, or local governmental unit of the State shall render all possible assistance to the Governor and to the Director of the Disaster Office in carrying out the provisions of this chapter.

(b) Whenever a state of disaster or of extreme emergency is proclaimed and whenever a state of extreme emergency exists within any region or area, the following classes of state employees who are within such area or region or who may be assigned to duty therein shall be peace officers and shall have the full powers and duties of such officers for all purposes as provided by the Penal Code, and shall perform such

duties and exercise such powers as are appropriate or as may be directed by their superior officers:

(a) All members of the California Highway Patrol.

(b) All deputies of the Department of Fish and Game who have been appointed to enforce the provisions of the Fish and Game Code pursuant to Section 851 of that code.

(c) The State Forester and the classes of the Division of Forestry who are designated by the State Forester as having the powers of peace officers, pursuant to Section 4011 of the Public Resources Code.

APPENDIX 14

CALIFORNIA LEGISLATURE—1958 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL No. 74

Introduced by Messrs. Kilpatrick, Miller, Sumner, and Beaver

March 14, 1958

REFERRED TO COMMITTEE ON MILITARY AND VETERANS AFFAIRS

An act to add Chapter 12 (commencing with Section 6950) to Division 7 of Title 1 of the Government Code, relating to the preservation and safekeeping of essential public records, and making an appropriation.

The people of the State of California do enact as follows:

SECTION 1. Chapter 12 is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12. REPRODUCTION AND PRESERVATION OF PUBLIC RECORDS

Article 1. Reproduction of Essential Records

6950. The governing body of each city, county, city and county, district, authority, and other local public agency, shall determine which of its records, in the event of destruction of the originals by reason of war or enemy-caused disaster, would be essential to:

(a) The performance of its functions.

(b) The protection of the personal and property rights of persons affected by its functions.

6951. After the first determination, additional determinations shall be made at least once every six months thereafter with respect to ad-

ditional essential records which may have been accumulated in the interim.

6952. After a determination, the governing body shall promptly cause the essential records to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original record. The recordings, copies, or reproductions shall be stored in a dispersal facility.

Article 2. Dispersal Facilities

6970. A dispersal facility is a storage place designed in a manner and located at a place which will afford reasonable assurance that materials placed therein will be safely preserved, as determined by consideration of the following factors:

(a) The destructive effects of modern military weapons, including thermonuclear explosive devices.

(b) The logical target areas in the State at which modern military weapons may be directed by an enemy.

(c) The ordinary destructive forces of nature.

(d) The comparative costs of establishing storage places in any of the suitable locations.

6971. The Secretary of State shall establish one or more dispersal facilities for storage of the recordings, copies, or reproductions of essential records of local public agencies.

6972. Every local public agency shall provide for the establishment of a dispersal facility for the storage of the recordings, copies, or reproductions of its essential public records, except that, in lieu of making such provision, the local agency may contract with the Secretary of State to store the materials in a facility established by that officer.

6973. The Secretary of State may require that a reasonable charge, not exceeding the actual cost of storage, be paid by any local public agency which contracts to store material in a facility established by the Secretary of State; and such a charge shall be a lawful one against any such agency.

6974. For the purpose of providing a dispersal facility, any local public agency may contract with any one or more other local public agencies for the establishment and conduct of the facility pursuant to the laws governing the joint exercise of powers.

6975. A facility established either individually or by more than one local public agency need not be located within the boundaries of the local agency or agencies.

SEC. 2. The sum of _____ dollars ($_____) is appropriated from the General Fund in the State Treasury for expenditure by the Secretary of State in carrying out the duties prescribed by Section 6971 of the Government Code.

APPENDIX 15

ASSEMBLY BILL NO. 73

Passed the Assembly April 8, 1958; Passed the Senate April 3, 1958

CHAPTER 63

An act to add Section 12265 to the Government Code, relating to the protection and preservation of essential state records.

The people of the State of California do enact as follows:

SECTION 1. Section 12265 is added to the Government Code, to read:

12265. Each state agency, with the concurrence of the Department of Finance shall determine what state records it has that are essential to the functioning of the State Government in the event of a major disaster that would result in the destruction thereof, including any records that are highly important and that would be costly to reproduce or reconstruct. Provisions shall thereupon be made for the microfilming or authentic reproduction or reproduction by electronic process of such records, which shall be done in the most economical manner as determined by the Department of Finance. Such material shall then be stored by the Secretary of State in such places within the State as he determines to be appropriate.

Microfilm copies, electronically reproduced copies, or copies reconstructed from the punch cards which produce the originals of such records shall have the same validity and force and effect as the originals in the event that the originals are destroyed by a disaster.

APPENDIX 16

JOHN M. PEIRCE
DIRECTOR OF FINANCE

GOODWIN J. KNIGHT
GOVERNOR

STATE OF CALIFORNIA
Department of Finance
SACRAMENTO 14

April 4, 1958

HONORABLE VERNON KILPATRICK
Member of the Assembly
Room 3132, State Capitol
Sacramento, California

DEAR MR. KILPATRICK: This is in response to your letter of April 3, 1958 regarding Assembly Bill 73 relating to records preservation.

This matter has been discussed with both Mr. Collins and Mr. Harkness of this department, and I can assure you that the Department of Finance can and will carry out the intent of the bill. As a matter of fact, we have already started a study in our Organization and Cost Control Division with the same objectives as are contained in the bill.

I did not understand that Mr. Harkness had opposed the bill; as a matter of fact he explained the various features of the bill and supported the desirability of its provisions. In addition he pointed out the serious financial situation facing the State as he must do when all bills carrying appropriations come before the Ways and Means Committee or the Finance Committee. When it appeared this bill was about to be denied approval because of the financial problem, he quickly pointed out our ability to perform without the appropriation. I am glad to be able to assure you that the absence of the appropriation will not prevent this department from carrying out the provisions of the bill.

Yours sincerely,

JOHN M. PEIRCE
Director of Finance

APPENDIX 17

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER NO. 58-CD-1

WHEREAS, The possibility of widespread natural disaster is always present in this State; and

WHEREAS, Potential enemies of the United States have capacity to attack this State and the United States in ever-growing force; and

WHEREAS, Section 1540 of the Military and Veterans Code provides:

"The Governor may assign to a state agency any activity concerned with the mitigation of disaster of a nature related to the

existing powers and duties of such agency, and it shall thereupon become the duty of such agency to undertake and carry out such activity on behalf of the State."; and

WHEREAS, During the past six years, certain assignments of civil defense and disaster responsibilities have been made; and

WHEREAS, These assignments and others should now be formalized to properly integrate existing State agencies into the civil defense and disaster effort; now, therefore,

I, GOODWIN J. KNIGHT, Governor of the State of California, by virtue of the powers and authority vested in me by the Constitution and laws of this State and in accordance with the provisions of Section 1540 of the Military and Veterans Code, do hereby issue this order as a necessary step in advance of actual disaster or catastrophe, and as part of the civil defense and disaster program of the State of California, to become effective immediately:

A. Each department, independent division, bureau, board, commission, and independent institution of the State Government (hereinafter referred to as agencies) shall make appropriate plans for:

1. The protection of its personnel, equipment, and supplies (including records and documents) against the effects of enemy attack or natural disaster. Such plans shall include the following:

a. Provisions for the possibility of attack without warning, attack under circumstances not permitting prior evacuation, natural disaster, and radioactive fallout.

b. Provisions for the possibility of attack of which there may be sufficient warning to permit pre-attack evacuation. Plans shall be made for pre-attack evacuation of personnel and dispersal of equipment and supplies from installations located in target areas and from such other areas as may be determined by the California Disaster Office.

c. Provisions for the protection and maintenance of vital public records and documents. To the maximum extent practicable, the original or a copy of each record or document requiring protection, in the public interest, against the effects of enemy attack or natural disaster shall be stored or kept outside target areas and such other areas as may be determined by the California Disaster Office.

d. To the maximum extent practicable, each agency shall store its supplies and equipment at sites located outside the aforementioned target areas and other designated areas.

2. Carrying on such of its normal services as may continue to be needed, on an emergency basis, in event of enemy attack or natural disaster.

a. Each agency shall survey its normal functions and determine which of such functions must be continued notwithstanding enemy attack, and the extent to which its resources, including personnel, equipment, supplies, and facilities, must be devoted to carrying out such functions. An agency which has functions which must be continued notwithstanding enemy attack, and having its principal headquarters in a target area, shall establish and equip an auxiliary headquarters at a site located in a nontarget area, to which the agency head (except as may otherwise be provided) and appropriate personnel of the agency shall report in the event of enemy attack.

b. All resources, including personnel, of the agency not required in the performance of the functions which must be continued in the event of an enemy attack shall be available for the performance of civil defense and disaster functions and shall be reported to the California Disaster Office as soon as determined, in order that such resources may be assigned to the performance of a civil defense and disaster function by the Director, California, Disaster Office, if such assignment is deemed necessary.

B. The responsibility for such planning shall rest with the head of each agency, provided that such official may designate a competent person in the service of the agency to be and act as Civil Defense and Disaster Officer of the agency. It shall be the function of such Civil Defense and Disaster Officer to supervise and coordinate such planning by the agency, subject to the direction and control of the head of the agency.

C. In addition to the responsibilities imposed above, each agency may be assigned additional specific civil defense and/or disaster responsibilities by the Director of the California Disaster Office, with the approval of the Governor. Such responsibilities shall be as mutually agreed upon by the head of each agency concerned and the Director of the California Disaster Office, and shall include the assignment of one or more competent persons of the agency to serve as the staff of the Director, California Disaster Office, during periods of a state of extreme emergency. During a state of disaster, the director of such agency shall assign appropriate liaison officers to serve at the California Disaster Office headquarters and/or at its regional or sector headquarters. Each agency shall provide the necessary training for persons assigned a disaster function, and shall make such persons available for test exercises.

D. Authority is hereby granted that employees from state agencies assigned for duty during authorized exercises at state, regional, or sector control centers be allowed compensating time off for services rendered outside regular working hours, or compensated for such services, as the director of the agency may direct.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed.

Done at the City of Sacramento this 2d day of April, 1958.

ATTEST:

GOODWIN J. KNIGHT
Governor

(SEAL)

FRANK M. JORDAN
Secretary of State

APPENDIX 18

STATE OF CALIFORNIA — Basic Plan, Enclosure 7, Tab 1
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

ADMINISTRATIVE ORDER NO. 58-1

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of Agriculture is assigned responsibility for the Food Supply Division of the California Disaster Office, for defense against biological and chemical warfare against animals and crops, and for decontamination measures for well persons. Such responsibilities are hereby defined as follows:

1. The department shall prepare to use, and use, the available resources of the department, as defined in this order, and such other resources as may be made available for such purposes, to perform food supply and other assigned functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Food supply and other assigned functions shall include, but shall not be limited to, the following:

(1) Planning and directing a statewide food supply program, in order to maintain adequate emergency food supplies;

(2) Planning and directing a statewide program for the control and eradication of diseases, pests, or chemicals introduced as agents of biological, chemical, or radiological warfare against animals or crops; and

(3) Co-operating with and assisting the Emergency Welfare Division, California Disaster Office, in decontamination of well persons and of such facilities as deemed necessary.

2. During a state of extreme emergency, the Director of the Department of Agriculture shall be the Chief, Food Supply Division, California Disaster Office, and shall act as State Food Administrator.

a. To the extent its available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, the department shall assign competent personnel of the department to serve as the state, regional, and sector Food Supply Division staff of the California Disaster Office and to assist in other assigned functions.

b. The department shall provide the necessary training for personnel so assigned, under the supervision of the department's director or of such officers or employees of the department as the director may designate to supervise said training, and shall make such personnel available for test exercises.

3. During a state of disaster, as proclaimed by the Governor, performance of food supply and other assigned functions by the department shall be co-ordinated by the California Disaster Office. The department shall assign, to the extent its available personnel and resources permit, such competent personnel as may be required to advise and give technical assistance to the director, California Disaster Office, and to its regional and sector co-ordinators, on food supply and other assigned functions, and to maintain liaison and channel intelligence between the department and the California Disaster Office.

4. The department shall advise and give technical assistance to the staff of the California Disaster Office in the development and co-ordination of statewide, regional and local plans related to emergency food supply, defense against biological and chemical warfare against animals and crops, and decontamination measures for well persons.

5. The Director, California Disaster Office, shall provide basic assumptions, criteria, and standards relating to said responsibilities and shall review and co-ordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958
(Signed) GOODWIN J. KNIGHT
Governor of California

STATE OF CALIFORNIA
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

Basic Plan, Enclosure 7, Tab 2

ADMINISTRATIVE ORDER NO. 58-2

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of California Highway Patrol is assigned responsibility for the Traffic Control Division of the California Disaster Office. Such responsibility is hereby defined as follows:

1. The department shall prepare to use, and use, the available resources of the department, as defined in this order, and such other resources as may be made available for such purpose, to perform traffic control functions, as needed, during a state of extreme emergency.

a. Available resources of the department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Traffic control functions shall include, but shall not be limited to, the following:

(1) The overall planning of statewide traffic control measures;

(2) Co-ordinating such plans with city traffic control plans; and

(3) Overall state traffic control operations during a state of extreme emergency.

2. During a state of extreme emergency, the Commissioner, Department of California Highway Patrol, shall be the Chief, Traffic Control Division, California Disaster Office.

a. To the extent its available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, the department shall assign competent personnel of the department to serve as the state staff of the Traffic Control Division, California Disaster Office, and as regional and sector traffic control chiefs and assistants.

b. The department shall provide the necessary training for personnel so assigned, under the supervision of the commissioner of the department or of such officers or employees of the department as the commissioner may designate to supervise said training, and shall make such personnel available for test exercises.

3. The department shall advise and give technical assistance to the staff of the California Disaster Office in the development of and coordination of statewide, regional and local plans affecting or affected by traffic control functions.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958
(Signed) GOODWIN J. KNIGHT
Governor of California

STATE OF CALIFORNIA
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

Basic Plan, Enclosure 7, Tab 3

ADMINISTRATIVE ORDER NO. 58-3

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of Education is assigned responsibility for rendering assistance to the California Disaster Office in education and training functions. Such responsibility is hereby defined as follows:

1. The department shall prepare to use, and use, the available resources of the department, as defined in this order, and such other resources as may be made available for such purpose, to perform, or

to assist the California Disaster Office to perform, as may be appropriate in the circumstances, education and training functions.

a. Available resources of the department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Such education and training functions shall include, but shall not be limited to, the following:

(1) Encouraging and assisting in planning and organization for combating disaster situations by private and public educational institutions.

(2) Assisting in developing and providing curricular materials and plans for education and training relative to civil defense for the benefit of the public or for use in public and private educational institutions.

(3) Stimulating maximum use of the resources of public and private educational institutions and staffs toward the fullest possible utilization of the resources of all educational institutions for disaster purposes.

Further specification of such functions shall be developed between the department and the California Disaster Office.

2. During a state of extreme emergency, to the extent the available resources of the department permit, and as provided in Section C of Executive Order No. 58-CD-1, the department shall assign, upon request, competent personnel of the department (to include clerical personnel) to assist the state, regional and sector Information and Education Division staff of the California Disaster Office, and shall make such personnel available for test exercises.

3. During a state of disaster, as proclaimed by the Governor, performance of emergency functions shall be co-ordinated by the California Disaster Office.

4. The department shall advise and assist the various services of the California Disaster Office in developing and carrying out technical plans and training and procurement programs, to make possible the proper performance of civil defense and disaster functions when required.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958

(Signed) GOODWIN J. KNIGHT
Governor of California

STATE OF CALIFORNIA
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

Basic Plan, Enclosure 7, Tab 4

ADMINISTRATIVE ORDER NO. 58-4

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of Employment is assigned responsibility for the Manpower Division of the California Disaster Office. Such responsibility is hereby defined as follows:

1. The department shall prepare to use, and use, the available resources of the department, as defined in this order, and such other resources as may be made available for such purpose, to perform manpower service functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Manpower service functions shall include, but shall not be limited to, the following:

(1) Providing a central recruitment service for all civil defense and disaster services and related activities at all administrative levels during a state of disaster or a state of extreme emergency;

(2) Providing a clearance system for needed workers throughout the State and among other states;

(3) Administering such controls over the assignment of manpower as may be prescribed by the California Disaster Office;

(4) Providing information on available labor supply and job openings to state, regional, and local disaster offices;

(5) Assisting in the estimating of surviving labor force and production facilities;

(6) Paying unemployment insurance and temporary disability insurance to qualified persons; and

(7) Administering, under federal delegation, any emergency income maintenance plan authorized by the Federal Government.

2. During a state of extreme emergency, the Director, Department of Employment, shall be the Chief, Manpower Division, California Disaster Office.

a. To the extent its available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, the department shall assign competent personnel of the department to serve as the state, regional and sector Manpower Division staff of the California Disaster Office.

b. The department shall provide the necessary training for personnel so assigned, under the supervision of the department's director or of

such officers or employees of the department as the director may designate to supervise said training, and shall make such personnel available for test exercises.

3. During a state of disaster, as proclaimed by the Governor, performance of manpower service functions by the department shall be co-ordinated by the California Disaster Office. The department shall assign, to the extent its available personnel and resources permit, such competent personnel as may be required to advise and give technical assistance to the Director, California Disaster Office, and to its regional and sector co-ordinators, on manpower service functions, and to maintain liaison and channel intelligence between the department and the California Disaster Office.

4. The department shall advise and give technical assistance to the staff of the California Disaster Office in the development of and co-ordination of statewide, regional and local plans affecting or affected by manpower service functions.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958

(Signed) GOODWIN J. KNIGHT
Governor of California

STATE OF CALIFORNIA
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

Basic Plan, Enclosure 7, Tab 5

ADMINISTRATIVE ORDER NO. 58-5

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of Fish and Game is assigned responsibility for rendering assistance to the Radiological Safety Division and the Law Enforcement Division of the California Disaster Office. Such responsibility is hereby defined as follows:

1. The department shall prepare to use, and use, the available resources of the department, as defined in this order, and such other resources as may be made available for such purposes, to perform, or to assist the California Disaster Office to perform emergency radiological safety and law enforcement functions.

a. Available resources of the department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the

department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Such emergency radiological safety and law enforcement functions shall include, but shall not be limited to, the following:

(1) Assisting the Radiological Safety Division in obtaining and collecting data relative to radiological contamination of land areas and water supplies, particularly by means of

(a) operation of radiological survey meters;

(b) utilization of the department aircraft and personnel for aerial monitoring;

(c) utilization of the department radio network for the collection of data; and

(d) assignment of competent personnel to the state, regional and sector control centers and mobile communications units of the California Disaster Office for the operation of said radio equipment.

(2) Assisting the Law Enforcement Division in carrying out its functions.

2. During a state of extreme emergency, to the extent the available resources of the department permit, and as provided in Section C of Executive Order No. 58-CD-1, the department shall assign competent personnel of the department to assist the State, regional, and sector Radiological Safety Division and Law Enforcement Division staff of the California Disaster Office in the performance of assigned functions.

3. During a state of disaster, as proclaimed by the Governor, performance of emergency functions shall be co-ordinated by the California Disaster Office. The department, through its designated representative, will maintain liaison and channel intelligence between the department and the California Disaster Office.

4. The department shall provide the necessary training for personnel so assigned, under the supervision of the department's director or of such officers or employees of the department as the director may designate to supervise said training, and shall make such personnel available for test exercises.

5. The department shall co-operate with the staff of the California Disaster Office in the development and co-ordination of statewide, regional and local plans relative to emergency radiological safety and law enforcement functions assigned to the department.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958

(Signed) GOODWIN J. KNIGHT
Governor of California

STATE OF CALIFORNIA
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

Basic Plan, Enclosure 7, Tab 6

ADMINISTRATIVE ORDER NO. 58-6

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of Justice is assigned responsibility for rendering assistance to the Communications and Attack Warning Division of the California Disaster Office. Such responsibility is hereby defined as follows:

1. The department now has in operation a leased teletypwriter network with stations in police departments, sheriffs' offices, other law enforcement agencies, and in the California Disaster Office, its regions and sectors. It shall be the responsibility of the department and the lessor of the equipment to take every reasonable precaution to insure the operability of this system during disasters.

2. In the event of disruption of service, in whole or in part, during a disaster, it will be the responsibility of the department and the lessor of the equipment to effect as rapid restoration of the disrupted parts of the system as possible.

3. The department will arrange to alert and mobilize sufficient personnel at its various relay centers during disasters so that the system will operate at its maximum efficiency.

4. The department will accept warning information from the California Disaster Office and give priority to its dissemination to all stations.

5. During a disaster the department will accept messages from the California Disaster Office, its regions and sectors and, where indicated, will give these messages priority handling.

6. During a disaster the department, through its designated representatives, will maintain liaison with the California Disaster Office.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958

(Signed) GOODWIN J. KNIGHT
Governor of California

STATE OF CALIFORNIA
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

Basic Plan, Enclosure 7, Tab 7

ADMINISTRATIVE ORDER NO. 58-7

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of Public Health is assigned responsibility for the Medical and Health Division of the California Disaster Office. Such responsibility is hereby defined as follows:

1. The department shall prepare to use, and use, the available resources of the department, as defined in this order, and such other resources as may be made available for such purpose, to perform medical and health functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Emergency medical and health functions shall include, but shall not be limited to, the following:

(1) The prevention and control of diseases and the promotion of the health and well-being of the people of the State.

(2) The detection and identification of biological and chemical warfare agents which affect man, and supervision and decontamination procedures.

(3) The supervision and co-ordination of activities of public health authorities in the following functions:

(a) Control of communicable diseases.

(b) Health education:

(1) Dissemination of necessary information to the public.

(2) Assistance in training of necessary auxiliary personnel.

(c) Public health nursing and allied services (augmented maternal and child health services):

(1) For mothers, infants, children, and aged persons under emergency situations.

(2) Supervision of volunteer nursing personnel used in public health services.

(3) Planning for and supervision of home care of sick and injured, normally cared for in hospitals.

(4) Family counseling services (with assistance of medical social workers and mental health workers, where available).

(d) Control of environmental sanitation services throughout the community and at medical facilities and mass care centers:

(1) Refuse and solid waste material.
(2) Water: Support utility water program, to insure a safe and adequate domestic water supply for emergency medical facilities, disaster service workers, evacuation and welfare facilities, and the unaffected resident population.
(3) Emergency sewage disposal: Supervise provision and maintenance of emergency facilities.
(4) Emergency food sanitation:
  (a) Inspection of food supplies and condemnation of damaged and contaminated food supplies.
  (b) Inspection and regulation of community food and meat supplies, including emergency food supplies brought into the area.
  (c) Supervision of food handling and mass sanitation.
  (d) Controlling sanitation of restoration or replacement of normal food processing facilities.
(5) Emergency vector control: To include insect, rodent, and ectoparasite control.
(6) Industrial sanitation: To include protection of the environment, as well as water, from hazardous contaminants.

(e) Laboratory services:

(1) To act as support services to all public health service groups, as well as augmenting emergency medical services' laboratories where needed.
(2) To examine and assay bacteriological and chemical samples submitted by sanitation services.

(f) Vital statistics: To be responsible in each operational area, county, or city, for setting up and maintaining an adequate medical and health record control system, and to co-ordinate the mortuary services in the same areas in recording deaths and other necessary information pertaining thereto.

(4) Any other functions and responsibilities delegated to the department by law or that may be assigned by the Governor in times of disaster.

2. During a state of extreme emergency, the Director, Department of Public Health, shall be the Chief, Medical and Health Division, California Disaster Office.

a. To the extent its available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, the department shall incorporate into the Medical and Health Division, California Disaster Office, those divisions, bureaus, and personnel of the department needed in operations for the mitigation of disaster.

b. The department shall provide the necessary training for personnel so assigned, under the supervision of the department's director or of such officers or employees of the department as the director may designate to supervise said training, and shall make such personnel available for test exercises.

3. During a state of disaster, as proclaimed by the Governor, performance of emergency medical and health functions by the department shall be co-ordinated by the California Disaster Office. The department shall assign, to the extent its available personnel and resources permit, such competent personnel as may be required to advise and give technical assistance to the Director, California Disaster Office, and to its regional and sector co-ordinators on emergency medical and health functions, and to maintain liaison and channel intelligence between the department and the California Disaster Office.

4. The department shall advise and give technical assistance to the Medical and Health Division staff of the California Disaster Office in the development and co-ordination of statewide, regional and local medical and health plans.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958

(Signed) GOODWIN J. KNIGHT
Governor of California

STATE OF CALIFORNIA
CALIFORNIA DISASTER OFFICE
Post Office Box 110
SACRAMENTO 1, CALIFORNIA

Basic Plan, Enclosure 7, Tab 8

ADMINISTRATIVE ORDER NO. 58-8

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said executive order, the Department of Public Works is assigned responsibility for the Engineer Division of the California Disaster Office. Such responsibility is hereby defined as follows:

1. The department shall prepare to use, and use, the available resources of the department, as defined in this order, and such other resources as may be made available for such purpose, to perform emergency engineering functions, as needed, during a state of extreme emergency.

a. Available resources of the department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Emergency engineering functions shall include, but shall not be limited to, the following, performed for the purpose of minimizing and/or repairing injury or damage to public facilities:

(1) The clearing, repair, and maintenance of roads and bridges for emergency use;

(2) The provision of assistance to the Rescue Service in situations requiring heavy equipment;

(3) The demolition of damaged structures;

(4) The rehabilitation or repair of public transportation and utilities facilities;

(5) The provision of engineering supplies, equipment, and personnel as disaster situations may require; and

(6) Assistance to the Radiological Safety Division, California Disaster Office, in monitoring functions.

Further specification of such functions shall be developed between the department and the California Disaster Office.

2. During a state of extreme emergency, the Director of the Department of Public Works shall be the Chief, Engineer Division, California Disaster Office.

a. To the extent its available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, the department shall assign competent personnel of the department to serve as the state, regional and sector Engineer Division staff of the California Disaster Office during a state of extreme emergency and during test exercises in preparation for such state of extreme emergency.

b. The department shall provide the necessary training for personnel so assigned, under the supervision of the department's director or of such officers or employees of the department as the director may designate to supervise said training.

3. During a state of disaster, as proclaimed by the Governor, performance of emergency engineering functions by the department shall be co-ordinated by the California Disaster Office. In order to facilitate such co-ordination, the department shall assign, to the extent its available personnel and resources permit, such competent personnel as may be required, during such state of disaster, to advise and give technical assistance to the Director, California Disaster Office, and to maintain liaison and channel intelligence between the department and the California Disaster Office.

4. The department shall also advise and give technical assistance to the Engineer Division staff of the California Disaster Office in the development of overall statewide engineer plans, in the co-ordination of regional and local engineer plans, and in providing design criteria for protective construction against both radiological and blast damage.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: April 21, 1958

(Signed) STANLEY PIERSON
Director
California Disaster Office

Approved: April 22, 1958

(Signed) GOODWIN J. KNIGHT
Governor of California

APPENDIX 19

The following persons testified before the committee at its various hearings:

Mrs. Emma Alcala, President, State Recorders' Association
Lawrence G. Allyn, Legislative Counsel
Philip D. Batson, Regional Administrator, Federal Civil Defense Administration
James W. Beebe, Chairman, Disaster Committees, Los Angeles Bar Association and State Bar Association
William Benedon, Corporate Records Management Advisor, Lockheed Aircraft Corporation
H. M. Berry, Federal Co-ordinator, Los Angeles Area, Federal Civil Defense Administration
Lt. Col. Paul H. Binford, Military Department
Jack Blair, Civilian Defense Director, Portland, Oregon
Marvin L. Blanchard, Department of Finance
Jack G. Blue, County Clerk, Alameda County
Ruth Bruton, City Clerk, City of El Monte
Thomas A. Carver, State Bar Association
Arthur Collins, Department of Finance
Admiral A. G. Cook, Civil Defense Director, City and County of San Francisco
Col. James C. Crockett, Retired, Nevada City
Charles P. Cusick, Department of Agriculture
Bernard Czesla, Legislative Counsel
William Davis, Jr., Historian, State Archives, Office of the Secretary of State
George M. Derry, Supervisor of Records, Richfield Oil Corporation
Edward Dolder, Department of National Resources
Harold M. Dorman, Civil Defense Co-ordinator, Department of Motor Vehicles
William H. Fairbank, Jr., Department of Water Resources
Charles Fairman, Professor, Harvard Law School
C. M. Gilliss, Director, Department of Public Works
Seth Gordon, Director, Department of Fish and Game
Joseph A. Greene, Manager, Business Records Center, Bekins Storage Company
Leonard Hooper, Recorder, Sacramento County
Gen. Earle M. Jones, Adjutant General
Mitchel Kaufman, Western States Atomic Storage Vaults
C. C. LaRue, County Clerk, Sacramento County
Ray E. Lee, Recorder, County of Los Angeles
Jack Lowe, Director, Disaster Relief and Civil Defense, Portland, Oregon
Col. Richard F. Lynch, Director of Civil Defense, Los Angeles
Charles Macbeth, Records Management Association of Southern California
Thornton W. Mitchell, Regional Manager, Naremco Services, Inc.
Martin Mongan, County Clerk, San Francisco County
Thomas Nolder, County Supervisors Association of California
Paul J. O'Brien, State Archivist
Harold J. Ostley, County Clerk, Los Angeles County
Walter T. Paasch, President, County Clerks' Association
Walter C. Peterson, City Clerk, Los Angeles
Stanley Pierson, Director, California Disaster Office
J. M. Roberts, Department of Correction
Don H. Roney, Department of Employment
Marion L. Sellers, Lockheed Aircraft Corporation
Ted R. Smith, Director of Civil Defense, Pasadena
John H. Stanford, Management Analyst, Department of Public Works
Thomas A. Toomey, County Recorder, San Francisco County

W. H. Topham, Records Supervisor, Pacific Telephone and Telegraph Company
Gen. Harry Van Wyke, Assistant Director, California Disaster Office
Benjamin M. Watson, Director of Civil Defense, Burbank; and President, Southern California Civil Defense and Disaster Association
Leo B. Wayland, City of Alhambra
Robert G. Webster, Department of Public Health
Ronald J. Weiser, Co-ordinator of the California Disaster Office, Region I
Sterling S. Winans, Director of Recreation, Recreation Commission
Norman Woodbury, Department of Alcoholic Beverage Control

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L-2677 5-58 2,500 *printed in* CALIFORNIA STATE PRINTING OFFICE

ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959

VOLUME 15 NUMBER 19

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

JESSE M. UNRUH, *Chairman*

PRELIMINARY REPORT OF

SUBCOMMITTEE ON LENDING AND FISCAL AGENCIES

MEMBERS OF SUBCOMMITTEE
JESSE M. UNRUH, *Chairman*

ROBERT W. CROWN
ERNEST R. GEDDES
RICHARD McCOLLISTER
WILLIAM MUNNELL
ALAN PATTEE
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HOWARD THELIN

March, 1958

ARTHUR E. KAISER, *Consultant*
MARION CERRELL, *Secretary*

Published by the
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OF THE STATE OF CALIFORNIA

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Minority Floor Leader
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Chief Clerk of the Assembly

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LETTER OF TRANSMITTAL

COMMITTEE ON FINANCE AND INSURANCE, March 26, 1958

Hon. L. H. Lincoln, Speaker of the Assembly
State Capitol
Sacramento, California

DEAR MR. LINCOLN: Attached is a copy of the Preliminary Report of the Subcommittee on Lending and Fiscal Agencies.

This report embodies the findings and recommendations of the staff of this subcommittee. A great deal of staff work and consultation has gone into the background work which is outlined in this report. However, this represents only the staff proposals and is not a full subcommittee recommendation.

Likewise, the proposed bill submitted herein is only a tentative draft and while it is the result of the thinking of the chairman of the subcommittee and the staff, plus the technical advice of Mr. Bernard Czesla of the Legislative Counsel's Office, it is of course, subject to review and revision by the entire subcommittee when we hold public meetings later this year.

It is the intent of this subcommittee to expend a great deal more time and effort on the basic research in the field of installment credit with a view toward proffering whatever legislation may be necessary to adequately protect both consumer and merchandiser, at the 1959 Regular Session.

Sincerely,

JESSE M. UNRUH, Chairman

REPORT OF SUBCOMMITTEE ON

LENDING AND FISCAL AGENCIES

During the past several months, the Subcommittee on Lending and Fiscal Agencies conducted an extensive survey into the activities and practices of retail businesses engaged in the sale of goods and services on the so-called "installment" or "easy payment" plan, and into the activities and practices of financial institutions engaged in buying the contracts and/or obligations resulting from such sales.

As a preliminary step, letters were addressed to representative organizations and governmental agencies, whose opinions in this field would be of value in determining the areas in which abuses might exist, and for suggestions toward the correction of these undesirable factors. We are indebted to these many people for their excellent replies, which pointed out these items for major consideration:

1. Fine print and lengthy wording of contracts discourage the reading of what is being signed.
2. Customers are required to sign contracts in blank.
3. Charges are not clearly stated in contracts.
4. The amount of the finance charges, known as the "Time Price Differential" is not regulated or limited by law and many such charges now being made are considered as exorbitant.
5. Failure to deliver to the customer a copy of the agreement he signed.
6. Exorbitant penalty and late charges on delinquent payments.
7. Arbitrary and unregulated charges for payment extensions.
8. Refusal to rebate portion of the finance charge when payment is anticipated.
9. Failure to properly credit the customer with the unearned portion of the finance charge when contracts are extended, consolidated or when subsequent purchases are added to an existing contract.
10. Repossession abuses.
11. Deficiency charges on repossessed merchandise are not made known to debtor for several months or more.
12. Wage assignments and attachment of wages often create hardships which force a debtor in desperation to seek loans from so-called "loan sharks." They often cause a debtor to lose his employment when he has met adverse circumstances through sickness, accident, etc.

Questionnaires were sent to approximately 100 representative retailers in all sections of California, which received an approximate 5 percent response.

Personal interviews were held with smaller merchants and with financing institutions.

These investigations revealed a variety of practices and types of accounts are in existence. These can be briefly summarized as follows:

1. INSTALLMENT ACCOUNTS

These embrace sales made and secured by conditional sales contracts (or other forms of title retaining instruments) and also sales made without security, wherein the repayment schedule is predetermined and the finance charge is calculated in advance as a percentage of the amount deferred for the number of payments required for the complete liquidation of the debt.

2. OPEN END INSTALLMENT ACCOUNTS

These accounts are secured by conditional sales, etc., the same as for installment accounts, and provide that additional charges may be added without the formality of a new contract. The payment schedule is adjusted upward in accordance with a predetermined schedule of brackets related to the balances created by additional purchases, and the finance charge is calculated monthly as a percentage of each monthly balance.

3. FLAT RATE FINANCE CHARGE ACCOUNT

This type of account is used by wearing apparel chain stores and mail order houses. Finance charges are added directly to the sales slip. Payments are required on a weekly, semimonthly, or monthly basis, and payments are increased according to a predetermined bracket schedule as balances increase due to additional purchases.

4. COUPON OR SCRIP ACCOUNTS

(Unsecured)

Coupons or scrip in stated amounts are issued by the seller to the buyer for use in payment of goods or services of like amount and are charged to the customer's account to be repaid in a number of installments. A finance charge is added to the value of the coupons or scrip at the time of issuance.

5. FIXED PAYMENT REVOLVING CHARGE ACCOUNTS

The customer agrees that his account shall not exceed a certain stipulated amount, and that he will make monthly payments in accordance with a schedule related to the amount of that agreed upon limit of his account, and that he will pay a finance charge of an agreed percentage of his periodic monthly balances. The account is said to "revolve" because the customer is privileged to make charges in an amount equal to the difference between his existing account balance and the agreed upon limit.

6. CHART PLAN REVOLVING ACCOUNT

This is similar to the fixed payment revolving account, but embodies these variations: (a) no limit is established; (b) payments vary from month to month in accordance with a predetermined schedule related to the periodic monthly balances. The finance charge is a percentage of the periodic monthly balances as in the fixed payment account (5 above).

Many retailers, particularly those which are well financed, carry their own paper and accounts. However, many smaller and less well financed retailers assign or sell their contracts or accounts to banks, or other financing institutions. This practice has been beneficial to the small businessman, for it has enabled him to become competitive in a field where a large portion of the volume is being done on an installment basis, and it has relieved him of the responsibility of maintaining and operating a credit accounts receivable and collection department. On the other hand, this very factor is one which may be partly responsible for some of the high rates of financing charges which exist. Consideration must, however, be given to the fact that financing institutions depend entirely on income from financing charges for their operating costs and profit, whereas the retailer who carries his own paper has a profit from the goods sold and needs only an income from financing charges which will defray the extra costs of administering and financing installment accounts. Any legislation which will regulate the rate of financing charges must take these factors into consideration in order to arrive at an equable rate.

The following portions of this report will outline an analysis of existing practices and the legislation which is proposed in connection therewith.

DEFINITIONS RELATING TO TYPES OF ACCOUNTS

The various accounts heretofore outlined are defined in the proposed bill in three categories:

1. *Retail Installment Sale*

This will include:

a. Installment accounts
b. Open end installment accounts
c. Flat rate finance charge accounts
d. Coupon or scrip accounts

} When secured

2. *Retail Installment Obligations*

This will include the accounts listed in the foregoing when *not* secured.

3. *Retail Installment Credit Agreement*

This will include:

a. Fixed payment revolving charge accounts.
b. Chart plan revolving accounts.

RETAIL INSTALLMENT CONTRACT AND OBLIGATION FORMS

An inspection of a large number of forms currently in use, indicates that the majority of them contain a reasonable outline of the terms and conditions of the contract; that most of them are printed in small type and many in very faint printing; that in some cases the contract form is not titled to indicate it is a title retention contract; that none show the total "time" price; and that none contain warnings that the contract must not be signed if it contains any blank spaces. The proposed bill provides:

1. That the printed portion of the contract shall be in at least eight-point type.
2. That the words "Retail Installment Contract" or "Retail Installment Obligation" be printed in at least 10-point bold type, be printed directly above the space for the customer's signature and at the top of the form.
3. That the following warning be printed in at least eight-point bold type on the face of the contract:

NOTICE TO THE BUYER

(1) Do not sign this agreement before you read it or if it contains any blank space;
(2) You are entitled to a completely filled in copy of this agreement;
(3) Under the law, you have the right to pay off in advance, the full amount due and under certain conditions to receive a partial refund of the credit service charge.

4. That (with certain exceptions) the contract must list:
   a. The cash sale price;
   b. The amount of the down payment and allowance for goods traded in;
   c. The difference between (a) and (b);
   d. The amount charged for insurance, if any;
   e. The amount, if any, of official fees;
   f. The total of (c), (d) and (e);
   g. The amount of the credit service charge, if any;
   h. The total of items (f) and (g);
   i. The number, amounts and due dates of the installment payments;
   j. The total of the "Time Sale Price" which is the sum of items (h) and (b).

   (NOTE: This last item (j) is for the purpose of creating, in the mind of the buyer, an awareness of the total cost to him of the goods or services he is purchasing.)
5. The proposed bill also makes provisions for the procuring and charges for insurance.
6. The proposed bill prohibits the following provisions being included in a contract or obligation:
   a. an agreement that the buyer will not assert against an assignee a claim or defense arising out of the sale, except that it may contain such a provision as to an assignee provided the notice of assignment informs the buyer that he must, within 10 days and in writing, notify the assignee of any claim or defense;
   b. the acceleration of the maturity of the contract except for default;
   c. a power of attorney is given to confess judgment, or an assignment of wages is given, except that nothing shall prevent the giving of an assignment of wages in a separate instrument executed pursuant to Section 300 of the Labor Code;
   d. a waiver by the buyer of right of action against the seller or holder for illegal acts committed in the collection of payments or the repossession of goods;

e. a power of attorney given by the buyer appointing the seller or holder as the buyer's agent in collection of payments or repossession of goods;
f. whereby the buyer relieves the seller from legal remedies which the buyer may have against the seller.

FINANCING CHARGES

Information obtained by questionnaire and personal interviews with representative segments of the retail trade and financing institutions reveals a large variety of rate plans are in common use. It may be that we have not discovered the highest rate in use, due to the fact that businesses using such higher rates may possibly have failed to answer our questionnaire. However, investigations will be continued by our staff, to determine if any of such rates do exist, as we suspect they do.

In the following table, we have set forth the rates used in connection with contracts and obligations. The "annual rate" is the percentage per annum added to the amount being financed, commonly referred to as the "time price differential", (TPD). For purposes of comparison with rates charged on credit agreements (revolving accounts), these time price differential rates are converted in the table to "true interest rates." The table also is divided to show the rates commonly used by retailers who carry their own paper and rates used by retailers who sell their paper to financing institutions.

Retailers		*Finance*		
TPD (percent)	*True interest*	*TPD (percent)*	*True interest*	
6.0	11.08	11.96	22.08	
7.2	13.30	12.80	23.62	
8.0	14.80	12.92	23.85	
8.5	15.70	13.64	25.18	
9.0	16.60	13.64	25.18*	(12 mo.)
9.5	17.50	14.11	26.05*	(15 mo.)
10.0	18.50	14.64	27.03*	(18 mo.)
14.4	26.60	15.19	28.04*	(21 mo.)
		15.79	29.15*	(24 mo.)

* This rate is shown on one chart which graduates upwards with the length of contract.

Variations occur in specific industries. One mail order concern applies 10 percent to the amount being financed for a period of six months, which results in a time price differential of 20 percent per annum, or a true interest rate of 36.92 percent. This rate applies only to their sales of wearing apparel and coupon books, which have a small average sale. One wearing apparel chain store adds 20 percent to the cash price, and requires payments on a weekly basis. The liquidation period may run from three to six months, which results, in the cases we have analyzed, in a true interest rate of from 60 percent to 100 percent plus, per annum. Average sale is small and expense of operation high.

The rates used by dealers who sell their paper to financing institutions are determined by the arrangement they can make with the financing institution. The financing institution sets the rate of discount at which they will buy the paper from the seller. If the seller is well established in a good community and has a sound record of good business practices, the rate is lower than for one who is located in a less

desirable area and/or eaters to marginal credit risks, or who uses high powered advertising or selling methods.

It is not pertinent to this report to go into complete details regarding the financing institutions' purchasing agreement with the seller, except to state that it is a common practice to discount the seller's contracts at the full amount of the financing charge made by the seller, but to set a portion of this amount aside as a reserve for the dealer. As an example: If on a contract for $100 for 12 months, the seller has charged the buyer a finance charge of $12, making the total contract price $112, the financing company would buy the contract for $100. On the remaining $12, the financing company would retain $10 and set the other $2 aside in a reserve for the dealer. This reserve would be held until the amount of the reserve exceeded 5 percent of the total paper outstanding in the dealer's portfolio. When the reserve reaches this stated 5 percent, it is not necessarily paid to the dealer; first the amounts of all doubtful accounts are deducted from the reserve. In essence, while the paper has been purchased on a "nonrecourse" basis, the seller is responsible for bad debt losses; in return the finance company assumes the responsibility and cost of the credit investigation and of the accounting and collection processes. In some cases, the calibre of the dealer's paper may be such that the discount rate charged him by the financing institution may be greater than the credit service charge charged the buyer by the dealer and the financing institution gets part of the dealer's principal; which can lead to the assumption that the dealer's selling price contains a large margin of profit.

The position of the financing institutions in respect to their higher rates is that these are necessary because of the greater risks involved, and because their costs must come from these charges. It is evident, however, that where the dealer's paper is "high-grade," discount rates as low as 8 percent are in existence. As the rates increase, so does the temptation to accept lower grade paper arise, and this can lead into "overloading" the buyer with debt beyond his reasonable ability to discharge. In the opinion of this committee, a maximum rate of $10 per $100 per annum on the indebtedness up to $1,000, and $8 per $100 per annum on the indebtedness in excess of $1,000 is sufficient to absorb operating and capital expenses and afford a reasonable profit, provided care is exercised in evaluating the credit worthiness of the buyer, and in refusing to buy paper from a dealer whose practices do not conform to the dictates of good business.

Realizing that certain administrative costs are incurred in negotiating and establishing accounts which would not be defrayed in contracts of small amount or short maturities by the foregoing rates, this committee recommends minimum credit service charge rates of $12 for contracts with maturities of more than eight months, and $10 if the contract has maturities of eight months or less.

Credit installment agreement (revolving charge account) rates are computed on the outstanding monthly balances, instead of being precalculated as in the case of contracts or obligations. Most retailers, at present, are charging 1½ percent per month, while a few charge lesser amounts. One retailer was found to be charging 1.6 percent per month, which is an indication that the rates could be increased if not controlled. Several examples were found wherein the rate was com-

puted on the higher amount of a $10 bracket. The 1½ percent per month is a true interest rate of 18 percent per annum, and the rate this committee recommends of 1¼ percent per month is consistent with the precalculated rate of 10 percent recommended for contracts and obligations, which is 18.46 percent per annum true interest. The proposed bill provides for a minimum credit service charge of $1 per month, but also provides that the 1½ percent rate shall apply only on the first $1,000 of the outstanding indebtedness, and be reduced to 1 percent per month on the outstanding indebtedness in excess of $1,000. Calculating the credit service charge on a bracketed schedule is permitted in our proposed bill, only if it is computed on the middle figure of a bracket having a $10 range.

SUMMARY OF PROPOSED RATES

	Contracts and obligations	*Credit agreements*
On amounts of $1,000 or less	10% per annum	1½% per mo.
True Interest	(18.46%)	(18%)
On the excess of $1,000	8% per annum	1% per mo.
True Interest	(14.77%)	(12%)
Minimum—8 months or less	$10.00	
Minimum—over 8 months	$12.00	
Minimum—credit agreements		$1 per mo.

REBATES OF CREDIT SERVICE CHARGES FOR PREPAYMENT

A variety of methods were found in use during our investigations up to this time. Few admitted not making any refunds, but we are informed there are organizations which do not permit prepayments and who will not make refunds; this subject will be followed up in our future investigations.

Some few merchants rebate on a pro rata basis. This is the most liberal method but it does not allow for absorption of initial costs of establishing the account, or for an adequate return on the large amounts outstanding in the early periods of the contract. Other sellers discount the amount being prepaid at the same rate of service charge originally used for the number of months between the time of prepayment and the date when the final payment would have been due. One firm was found to discount the amount being prepaid at a rate lower than the rate originally charged. The most common method is what is known as "the rule of 78" or "the sum of the digits." This is the same method prescribed in Section 2982 of our Civil Code, relating to the sale of motor vehicles on conditional sale contracts, namely, that the amount of the refund shall represent at least as great a proportion of the credit service charge as the sum of the periodic time balances after the month in which prepayment is made bears to the sum of all the periodic time balances under the schedule of installments in the contract or obligation. This requirement is included in our proposed bill, as relates to contracts and obligations only, there being no need to make any such provision in connection with credit agreements inasmuch as the service charges therein are made only as earned.

The proposed bill also provides that where the earned credit service charge amounts to less, there may be retained an amount equal to the minimum credit service charge applicable, i.e., $12 if the contract ma-

turity was more than eight months and $10 if the contract maturity was eight months or less. No refund need be made if the credit for anticipation is less than $1.

OTHER CHARGES

The proposed bill will provide that the credit service charge shall be inclusive of all charges incident to investigating and making the contract, obligation, or credit agreement and for the extension of credit provided thereby, and that no fee, expense, or other charge whatsoever shall be received, reserved or contracted for, except for:

1. Official fees required by law;
2. Premiums for insurance, which shall not exceed the rates fixed by the insurer;
3. A delinquency or collection charge of 5 percent on each installment in default not less than 10 days or $5, whichever is less, but only one such charge may be collected on any one installment;
4. Fees not exceeding 20 percent of the amount due and payable, if the contract, obligation or agreement is referred to an attorney not an employee of the seller or holder, or to a licensed collection agency;
5. An extension or deferral charge of not more than 1 percent per month, simple interest, for the period of extension or deferral agreement is made in writing and is signed by the parties thereto.

PROVISIONS FOR REFINANCING, CONSOLIDATING, OR ADDING PURCHASES TO AN EXISTING CONTRACT OR OBLIGATION

The provisions in the proposed bill are very specific, and may be summarized as follows:

1. The full unearned portion of the credit service charge (without benefit of the minimum earned credit service charge) shall be deducted from the existing unpaid balance or balances.
2. The new credit service charge shall be calculated on the consolidated total at the rates prescribed for the period from the date of the new contract or obligation to the date when the final payment is due.
3. An alternate method may be used in the event the final due date of the consolidated contract or obligation is later than the due date of the final installment of any previous contract or obligation included in the consolidation, under which circumstance the credit service charge at the applicable rate may be applied to the unpaid balance of any previous contract or obligation for the number of additional months it will run under the consolidated plan.
4. When additional goods are purchased and added to an existing contract, the goods purchased under the previous contract may be security for the goods purchased under the subsequent contract, but only until such time as the goods under the previous contract have been fully paid, or 20 percent of the goods purchased under the subsequent contract have been paid, whichever event first occurs. All payments made on a previous contract shall apply to that contract. Down payments made on subsequent purchases shall apply to that purchase. Subsequent payments shall be allocated to the various purchases in the same ratio as the original cash sale prices of the various purchases bear to one another, except that where the amount of each installment payment is

increased in connection with the subsequent purchase, the subsequent payments may be deemed to be allocated as follows: an amount equal to the original rate, to the previous purchase, and an amount equal to the increase, to the subsequent purchase, at the seller's election.

WAGE ATTACHMENTS AND REPOSSESSIONS

1. In the proposed bill, wage attachments are prohibited in connection with the collection of contracts, obligations, agreements and claimed deficiencies. In our opinion, every debtor should be given the opportunity to defend an action for judgment before his wages are tied up.

2. In connection with repossessions and deficiency judgments, the proposed bill contains the following provisions:

a. The goods may be taken without the right of redemption by the buyer, only under circumstances when the seller notified the buyer, not more than 40 days, nor less than 20 days prior to such retaking, and this notice must state the default, the date of retaking and outline what the buyer's rights are.

b. If the seller or holder does not give the aforementioned notice to retake, he must then hold the goods for 10 days after the retaking, during which time the buyer may redeem the goods by paying the amount owing plus the expenses of taking, keeping and storage, if the seller has not, five days before the taking, notified the buyer of his default, the seller will not be entitled to the expense of taking, keeping and storage. The buyer has the further right of demanding a statement of the sum due under the contract, of the expense of taking, keeping and storage, and should the seller or holder fail to furnish such a statement within a reasonable time, the holder will forfeit to the buyer $10 and also be liable to him for damages suffered because of this failure.

c. If the holder retakes the goods under the "no redemption" provision or if the buyer fails to exercise his right of redemption under the "redemption" provision, the holder may resell the goods at private or public sale; but if he does not resell these goods within a reasonable time, he shall be deemed to have elected to retain the goods and to release the buyer from any further obligations under the contract.

d. If the proceeds from the sale exceed the expenses and the balance of the contract, this excess will be paid to the buyer.

e. If the proceeds of the resale are not sufficient to defray the expenses of the resale plus the expenses of retaking, keeping and storing the goods, plus the balance due upon the purchase price, the holder may recover the deficiency from the buyer. (With the prohibition against attachments, this would require the holder to file suit and give the buyer an opportunity to file an answer and be heard.) The proposed bill also provides that the buyer may have the reasonableness of the expenses determined.

f. If the buyer has paid an amount equal to 80 percent or more of the total time sale price at the time of his default, and if the buyer returns the goods without legal proceedings in reasonable condition, the holder must, within five days of the receipt of the goods, either

(1) Retain the goods and release the buyer from further obligation under the contract or
(2) Return the goods to the buyer at the holder's expense and be limited to an action to recover the balance of the indebtedness.

RETAIL INSTALLMENT CREDIT AGREEMENT FORMS

Our investigation up to this time indicates that very few sellers deliver a copy of the agreement which is signed by him, to the buyer; and that the rate of service charge is not stated in many of the agreements, but instead, provide that a service charge will be paid on the monthly balances in accordance with the schedule in effect from time to time.

The proposed bill provides that a copy of the agreement be given the buyer at the time it is signed by him, and makes the following provisions as to the printing of the form:

1. To be printed in at least eight-point type.
2. That it contain the entire agreement between the seller and the buyer, which would include the rate of credit service charge.
3. That the words "Retail Installment Agreement" be printed in at least 10-point bold type at the top of the form and again directly above the space reserved for the buyer's signature.
4. That it contain the following notice printed in at least eight-point bold type: "Notice to the Buyer: (1) Do not sign this credit agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this credit agreement."

The proposed bill provides that the buyer be furnished with a statement at the end of each monthly period, which shall contain a legend to the effect that the buyer may, at any time, pay his total indebtedness, and will set forth the following:

1. The balance due the seller from the buyer at the beginning of the monthly period.
2. The amount and description of each purchase during the monthly period.
3. The amount of the payments made by the buyer, and the amount and description of credits due the buyer.
4. The amount of the credit service charge.

Charges other than service charges are restricted in the same manner as for contracts and obligations (see page 13), except that no collection or delinquency charge is authorized because the credit service charge applied to the periodic monthly balances automatically provides this revenue.

TERMS OF PURCHASE BY FINANCING AGENCY

Adequate provisions are made in the proposed bill allowing the purchase of contracts, obligations and agreements from the seller by a financing agency on such terms and conditions as may be mutually agreed upon.

PENALTIES

1. A wilful violation becomes a misdemeanor.
2. The buyer may recover an amount equal to the credit service charge, and delinquency, collection, extension, deferral or refinance charges, from any person who shall fail to comply with the provisions of this proposed bill, although failure to comply may be corrected by the holder without penalty if he does so within 10 days of being notified in writing of this failure by the buyer. However, the correction of a failure without penalty, will not apply to a person who willfully violates any prevision in connection with the imposition, computation or disclosures of, or relating to, a credit service charge on a consolidated total of two or more contracts or obligations.

Reeent legislation enacted by the states of New York, Illinois and Utah, regulating retail installment selling, has been reviewed by the staff of this committee and has served as an excellent guide in developing the proposed bill.

Throughout our considerations, we have kept in mind that it is imperative that no legislation restrict or hamper *legitimate* installment selling, and that every effort should be made to avoid error in fixing maximum legal rates, but if an error is made, it is less disastrous if made on the high side, rather than on the low side. Competition will at least do something to drive down exeessive rates, but when rates are fixed too low, subterfuge and unfair practices will return.

Many of the restrictions imposed by the proposed bill are directed toward attracting more attention to the *quality* of installment debt than to the aggregate of installment debt outstanding. If too many people are induced to eontract installment debt beyond their ability to repay this debt, it is dangerous not only to the individuals involved, but also to the whole economy. If installment credit is sound in individual eases, it is then likely to be sound in the aggregate. The enactment of this proposed bill will serve as a challenge to those engaged in the administration of installment credit to improve the quality of the credit they accept.

Jesse M. Unruh, Chairman
Robert W. Crown
Ernest R. Geddes *
Richard McCollister
William Munnell
Alan Pattee
William Byron Rumford
Howard Thelin

There follows a proposed bill which has been previously referred to, relating to credit and installment sales of goods and services.

* Did not sign report.

PROPOSED BILL

An act to add Title 2 (commencing with Section 1801) to Part 4, Division 3, of the Civil Code, relating to credit and installment sales of goods and services.

The people of the State of California do enact as follows:

SECTION 1. Title 2 is added to Part 4, Division 3, of the Civil Code, to read:

TITLE 2. CREDIT SALES

CHAPTER 1. RETAIL INSTALLMENT SALES

Article 1. General Provisions

1801. This chapter may be cited as the "Retail Installment Sales Law."

1801.1. Any waiver by the buyer of the provisions of this chapter shall be unenforceable and void.

1801.2. If any provision of this chapter or the application thereof to any person or circumstances is held unconstitutional, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Article 2. Definitions

1802. Unless the context or subject matter otherwise requires, the definitions given in this article govern the construction of this chapter.

1802.1. "Goods" means all chattels personal, other than things in action or money, sold for other than a commercial or business use or for purpose of resale. The term includes goods which, at the time of the sale or subsequently, are to be so affixed to realty as to become a part thereof whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code.

1802.2. "Services" means work, labor and services furnished, for other than a commercial or business use. In the case of a retail installment credit agreement, the term also includes any work, labor or services rendered by a retail seller principally engaged in the sale of goods.

1802.3. "Retail seller" or "seller" means a person who sells goods or furnishes services to a retail buyer.

1802.4. "Retail buyer" or "buyer" means a person who buys goods or obtains services from a retail seller.

1802.5. "Retail installment sale" or "sale" means the sale of goods or the furnishing of services by a retail seller to a retail buyer for a time sale price payable in installments but not one as to which any insurance or guarantee by the federal housing commissioner or under Title 3 of the act of Congress entitled "Servicemen's Readjustment

Act of 1944'' or by the federal government or the State of California, or any agency of either, is intended to be and is ultimately obtained.

The issuance of certificates or coupons in stated amounts by the retail seller to the retail buyer for use in payment of goods and services of like amount from the seller shall be deemed to be a ''retail installment sale'' or ''sale'' for the purposes of this chapter.

1802.6. ''Retail installment contract'' or ''contract'' means an agreement entered into in this State, pursuant to which the title to, the property in or a lien upon goods, which are the subject matter of a retail installment sale, is retained or taken by a retail seller from a retail buyer as security, in whole or in part, for the buyer's obligation. The term includes a chattel mortgage, a conditional sales contract and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of their value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the goods upon full compliance with the terms of the contract.

1802.7. ''Retail installment obligation'' or ''obligation'' means an agreement, entered into in this State, relative to a retail installment sale pursuant to which the buyer promises to pay, in installments, the time sale price or prices of goods or services, or both goods and services, or any part thereof, but which neither retains title in the seller nor gives the seller a lien upon the goods. The term does not include (a) a retail installment contract, or (b) a retail installment credit agreement, or (c) an obligation which is intended to be and is ultimately insured or guaranteed by the federal housing commissioner or under Title 3 of the act of Congress entitled ''Servicemen's Readjustment Act of 1944'' or by the Federal Government or any agency thereof.

1802.8. ''Retail installment credit agreement'' or ''credit agreement'' means an agreement entered into in this State, pursuant to which the buyer promises to pay, in installments, his outstanding indebtedness from time to time to a retail seller, not evidenced by a retail installment contract or obligation, for one or more items of goods or services, whenever purchased or obtained, which provides for a service charge and under which installment payments apply to his outstanding indebtedness from time to time.

1802.9. ''Cash sale price'' means the cash sale price stated in a retail installment contract or obligation for which the seller would sell or furnish to the buyer and the buyer would buy or obtain from the seller the goods or services which are the subject matter of a retail installment contract or obligation if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes and cash sale prices for accessories and services, if any, included in a retail installment sale.

1802.10. ''Time sale price'' means the total of the cash sale price of the goods or services and the amounts, if any, included for insurance, official fees and credit service charge.

1802.11. ''Credit service charge'' means that part of the entire amount agreed to be paid for the goods or services which exceeds the

aggregate of the cash sale price thereof and the amounts, if any, included in a retail installment sale for insurance and official fees.

1802.12. "Service charge" means all charges incident to investigating and making a retail installment credit agreement and for the extension of credit thereunder.

1802.13. "Principal balance" means the cash sale price of the goods or services which are the subject matter of the retail installment sale, plus the amounts, if any, included in a retail installment sale for insurance and official fees, minus the amount of the buyer's downpayment in money or goods.

1802.14. "Time balance" means the total of the principal balances and the amount of the credit service charge if any.

1802.15. "Holder" means the retail seller who acquires a retail installment contract, obligation or credit agreement executed, incurred or entered into by a retail buyer, or if the contract, obligation or credit agreement is purchased by a financing agency or other assignee, the financing agency or other assignee.

1802.16. "Official fees" means the fees required by law and actually to be paid to the appropriate public officer to perfect a lien or other security interest, on or in goods, retained or taken by a seller under a retail installment contract.

1802.17. "Person" means an individual, partnership, corporation, association or other group, however organized.

1802.18. "Financing agency" means a person engaged in this State, in whole or in part, in the business of purchasing retail installment contracts, obligations or credit agreements from one or more retail sellers. The term includes but is not limited to a bank, trust company, private banker, or investment company, if so engaged. The term does not include the pledgee of an aggregate number of such contracts, obligations or credit agreements to secure a bona fide loan thereon.

Article 3. Provisions of Retail Installment Contracts and Obligations

1803.1. A retail installment contract or obligation shall be dated and in writing; the printed portion thereof shall be in at least eight point type.

1803.2. A contract or obligation shall contain:

(a) The entire agreement of the parties with respect to the goods and services.

(b) Both at the top of the contract or obligation and directly above the space reserved for the signature of the buyer, the words RETAIL INSTALLMENT CONTRACT or RETAIL INSTALLMENT OBLIGATION, as the case may be, in at least ten point bold type.

(c) A notice in at least eight point bold type reading as follows: Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the credit service charge.

1803.3. Except as provided in Article 8 of this chapter, a contract or obligation shall:

(a) Contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer

as specified by the buyer and an adequate description of the services and goods (including the make and model, if any, in the case of goods customarily sold by make and model).

(b) Set forth the following items:

(1) (A) The cash sale price of the goods and services which are the subject matter of the retail installment sale.

(B) The cash sale price of any accessories and services not included in (A), separately itemized.

(2) The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(3) The difference between item (1) and item (2).

(4) The amount, if any, included for insurance, specifying the coverages and the cost of each type of coverage.

(5) The amount, if any, of official fees.

(6) The principal balance, which is the sum of items (3), (4), and (5).

(7) The amount of the credit service charge, if any.

(8) The time balance, which is the sum of items (6) and (7), payable by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.

(9) The time sale price.

(10) If any installment substantially exceeds in amount any prior installment other than the downpayment, the following legend printed in 10-point bold type or typewritten: THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS. followed, if there be but one larger installment, by: AN INSTALLMENT OF $_____ WILL BE DUE ON _____. or, if there be more than one larger installment, by: LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS: _____ (Insert the amount or amounts of every larger installment and its due date.) In the case of a retail installment obligation, OBLIGATION shall be substituted for CONTRACT in the required legend.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

The amount of the credit service charge may be expressed as a percent of the monthly balances to accrue thereafter, not to exceed the rate provided in Section 1810.3 for retail installment credit agreements, provided such credit service charge is not capitalized or stated as a dollar amount in any of the documents or payment books connected with the transaction; if so expressed, the time balance and the time sale price need not be set forth.

1803.4. Except as provided in Article 8 of this chapter no contract or obligation shall be signed by the buyer when it contains blank spaces to be filled in after it has been signed; however, if delivery of the goods is not made at the time of the execution of the contract or obligation and it so provides, the identifying numbers or marks of the goods and the due date of the first installment may be left blank and later inserted by the seller in the seller's counterpart of the contract or obligation after is has been signed by the buyer.

1803.5. If the cost of any insurance is included in the contract or obligation and a separate charge is made to the buyer for such insurance:

(a) The contract or obligation shall state whether the insurance is to be procured by the buyer or the seller.

(b) The amount, included for such insurance, shall not exceed the premiums chargeable in accordance with rate fixed for such insurance by the insurer.

(c) If the insurance is to be procured by the seller or holder, he shall, within 30 days after delivery of the goods or furnishing of the services under the contract or obligation, deliver, mail or cause to be mailed to the buyer, at his address as specified in the contract or obligation, a notice thereof or a copy of the policy or policies of insurance or a certificate or certificates of the insurance so procured.

1803.6. A contract or obligation may provide for the payment by the buyer of a delinquency and collection charge on each installment in default for a period of not less than 10 days in an amount not in excess of 5 percent of such installment or five dollars ($5), whichever is less, provided that only one such delinquency and collection charge may be collected on any such installment regardless of the period during which it remains in default. A contract or obligation may also provide for the payment of attorney's fees and costs in an amount not to exceed 20 percent of the amount due and payable under such contract or obligation if it is referred to an attorney who is not a salaried employee of the seller or holder for collection.

1803.7. If an obligation is not contained in a single instrument, then an instrument which otherwise conforms with the requirements of this article may contain provisions making the instrument applicable to purchases to be made from time to time from a retail seller. In such case, the seller, on each purchase, shall give the buyer promptly thereafter sales slips and memoranda which combined with such instrument shall set forth all items required by this article to be set forth in the obligation. Such sales slips and memoranda with respect to each purchase shall, combined with such instrument, constitute the obligation for such purchase; and each such obligation after the first shall, if the provisions of Article 8 are otherwise complied with, constitute a subsequent obligation under Article 8.

1803.8. The seller shall deliver to the buyer, or mail to him at his address shown on the contract or obligation, an executed copy thereof. Until the seller does so, a buyer who has not received the goods or services shall have an unconditional right to cancel the contract or obligation and to receive immediate refund of all payments made and redelivery of all goods traded-in to the seller on account of or in contemplation of the contract or obligation. Any acknowledgement by the buyer of delivery of a copy of the contract or obligation shall be printed or written in a size equal to at least 10-point bold type and, if contained in the contract or obligation, shall also appear directly above the space reserved for the buyer's signature. The buyer's written acknowledgement, conforming to the requirements of this section, of delivery of a copy of a contract or obligation shall be conclusive proof of such delivery and of compliance with this section and Section 1803.4 in any action or proceeding by or against an assignee of the contract

or obligation without knowledge to the contrary when he purchases the contract or obligation.

1803.9. Retail installment sales negotiated and entered into by mail without personal solicitation by a salesman or other representative of the seller, where the seller's cash and deferred payment prices and other terms are clearly set forth in a catalog or other printed solicitation of business which is generally available to the public, may be made as hereinafter provided. All of the provisions of this chapter shall apply to such sales except that the seller shall not be required to deliver a copy of the contract to the buyer as provided in Section 1803.4, and if, when the proposed retail installment sale contract is received by the seller from the buyer, there are blank spaces to be filled in, the seller may insert in the appropriate blank spaces the amounts of money and other terms which are set forth in the seller's catalog which is then in effect. In lieu of the copy of the contract provided for in Section 1803.4 the seller shall, within 15 days from the date of shipment of goods, furnish to the buyer a written statement of the items inserted in such blank spaces.

Article 4. Restrictions on Retail Installment Contracts and Obligations

1804.1. Except as provided in Section 1804.3, no contract or obligation shall require or entail the execution of any note or series of notes by the buyer, which when separately negotiated, will cut off as to third parties any right of action or defense which the buyer may have against the seller.

1804.2. No provision in a retail installment contract for the subsequent inclusion of title to or lien upon any goods, other than the goods which are the subject matter of the retail installment sale, or accessories therefor or special auxiliary equipment used in connection therewith, or in substitution, in whole or in part, for any thereof, as security for payment of the time sale price, shall be enforceable.

1804.3. If the transaction which gives rise to an obligation is the furnishing of goods or services for repairs, alterations or improvements upon or in conection with real property, the obligation may require or entail the execution of a promissory note but only if it bears the following legend in at least ten point bold type: "The transaction which gives rise to this note is the furnishing of goods or services for repairs, alterations or improvements upon or in connection with real property." The provisions of Section 1803.6 and Articles 9 and 10 of this chapter shall apply to any such note. No such note which does not set forth the amount of the credit service charge included in its face amount may be negotiated or otherwise transferred without the simultaneous delivery of the related retail installment obligation.

1804.4. No contract or obligation shall contain any provision by which:

(a) The buyer agrees not to assert against an assignee a claim or defense arising out of the sale, but it may contain such a provision as to an assignee who acquires the contract, obligation or obligation together with any related note in good faith and for value and who has no notice in writing of the facts giving rise to the claim or defense

within 10 days after such assignee mails to the buyer, at his address shown on the contract or obligation, notice of the assignment: (i) identifying the contract or obligation and (ii) informing the buyer that he must within 10 days notify the assignee in writing of any claim or defense there against.

(b) In the absence of the buyer's default, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the amount owing thereunder.

(c) A power of attorney is given to confess judgment in this State, or an assignment of wages is given, provided that nothing herein contained shall prohibit the giving of an assignment of wages contained in a separate instrument, executed pursuant to Section 300 of the Labor Code.

(d) The seller or holder of the contract or obligation or other person acting on his behalf is given authority to enter upon the buyer's premises unlawfully or to commit any breach of the peace in the repossession of goods.

(e) The buyer waives any right of action against the seller or holder of the contract or obligation, or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or obligation or in the repossession of goods.

(f) The buyer executes a power of attorney appointing the seller or holder of the contract or obligation, or other person acting on his behalf, as the buyer's agent in collection of payments under the contract or obligation or in the repossession of goods.

(g) The buyer relieves the seller from liability for any legal remedies which the buyer may have against the seller under the contract or obligation or any separate instrument executed in connection therewith.

1804.5. Any provision in a contract or obligation which is prohibited by this chapter shall be void but shall not otherwise affect the validity of the contract or obligation.

Article 5. Credit Service Charge Limitation

1805.1. A seller may, in a retail installment contract or obligation, contract for and, if so contracted for, the holder thereof may charge, receive and collect a credit service charge computed on the unpaid principal balance of the contract or obligation on the basis of the days actually elapsed from the date thereof to and including the date when the final installment is payable, at not exceeding the following rates:

(a) On so much of the principal balance as does not exceed one thousand dollars ($1,000), ten dollars ($10) per one hundred dollars ($100) per annum.

(b) If the principal balance exceeds one thousand dollars ($1,000), eight dollars ($8) per one hundred dollars ($100) per annum on the excess over one thousand dollars ($1,000).

(c) If the credit service charge so computed is less than twelve dollars ($12), twelve dollars ($12), but if the due date of the last installment of the contract or obligation is eight months or less after its date, ten dollars ($10).

1805.2. Such credit service charge shall be computed on the principal balance on contracts or obligations payable in successive semimonthly or weekly installments substantially equal in amount for a

period of one year. On contracts or obligations providing for installments extending for a period less than or greater than one year, the credit service charge shall be computed proportionately.

1805.3. When a retail installment contract or obligation provides for unequal or irregular installments, the credit service charge shall be at the effective rate provided for in Section 1805.1, having due regard for the schedule of installments.

1805.4. The credit service charge shall be inclusive of all charges incident to investigating and making the contract or obligation, and for the extension of the credit provided for in the contract or obligation, and no fee, expense or other charge whatsoever shall be taken, received, reserved or contracted for except as otherwise provided in this chapter.

Article 6. Payments

1806.1. Unless the buyer has notice of actual or intended assignment of a contract, obligation, or credit agreement payment thereunder made by the buyer to the last known holder of such contract, obligation, or credit agreement shall be binding upon all subsequent holders or assignees.

1806.2. At any time after its execution, but not later than one year after the last payment thereunder, the holder of a contract or obligation shall, upon written request of the buyer, give or forward to the buyer a written statement of the dates and amounts of payments and the total amount, if any, unpaid thereunder. Such a statement shall be supplied by the holder once each year without charge; if any additional statement is requested by the buyer, the holder shall supply such statement to the buyer at a charge not exceeding one dollar ($1) for each additional statement supplied to the buyer. A buyer shall be given a receipt for any payment when made in cash.

1806.3. Notwithstanding the provisions of any contract or obligation to the contrary, any buyer may pay it in full at any time before maturity and in so paying it shall receive a refund credit thereon for such anticipation. The amount of any such refund credit shall represent at least as great a proportion of the credit service charge or, if the contract or obligation has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic time balances after the month in which prepayment is made bears to the sum of all the periodic time balances under the schedule of installments in the contract or obligation or, if the contract or obligation has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the credit for anticipation of payment is less than one dollar ($1) no refund need be made. Where the earned credit service charge amounts to less, there may be retained an amount equal to the minimum credit service charge applicable.

1806.4. After the payment of all sums for which the buyer is obligated under a contract or obligation, and upon written demand made by the buyer, the holder shall deliver, or mail to the buyer at his last known address, such one or more good and sufficient instruments as may be necessary to acknowledge payment in full and to release all security in the goods.

Article 7. Refinancing

1807.1. The holder of a retail installment contract or obligation may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. The agreement for such extension or deferment must be in writing and signed by the parties thereto. The holder may charge and contract for the payment of an extension or deferral charge by the buyer and collect and receive the same, but such charge may not exceed an amount equal to 1 percent per month simple interest on the amount of the installment or installments, or part thereof, extended or deferred for the period of extension or deferral. Such period shall not exceed the period from the date when such extended or deferred installment or installments, or part thereof, would have been payable in the absence of such extension or deferral, to the date when such installment or installments, or part thereof, are made payable under the agreement of extension or deferment; except that a minimum charge of one dollar for the period of extension or deferral may be made in any case where the extension or deferral charge, when computed at such rate, amounts to less than one dollar. Such agreement may also provide for the payment by the buyer of the additional cost to the holder of the contract or obligation of premiums for continuing in force, until the end of such period of extension or deferral, any insurance coverages provided for in the contract or obligation, subject to the provisions of Section 1806.5.

1807.2. The holder of a retail installment contract or obligation may, upon agreement in writing with the buyer, refinance the payment of the unpaid time balance of the contract or obligation by providing for a new schedule of installment payments. The holder may charge and contract for the payment of a refinance charge by the buyer and collect and receive the same, but such refinance charge (1) shall be based upon the amount refinanced, plus any additional cost of insurance and of official fees incident to such refinancing, after the deduction of a refund credit in an amount equal to that to which the buyer would have been entitled under Section 1806.3 if he had prepaid in full his obligations under the contract or obligation, but in computing such refund credit there shall not be allowed the minimum earned credit service charge as authorized by such section, and (2) may not exceed the rate of credit service charge provided under Article 5 of this chapter. Such agreement for refinancing may also provide for the payment by the buyer of the additional cost to the holder of the contract or obligation of premiums for continuing in force, until the maturity of the contract or obligation as refinanced, any insurance coverages provided for therein, subject to the provisions of Section 1803.5. The refinancing agreement shall set forth the amount of the unpaid time balance to be refinanced, the amount of any refund credit, the amount to be refinanced after the deduction of the refund credit, the amount of the credit service charge under the refinancing agreement, any additional cost of insurance and of official fees to the buyer, the new unpaid time balance and the new schedule of installment payments.

Article 8. Add-ons and Consolidations

1808.1. A retail installment contract or obligation which otherwise conforms to the requirements of this chapter may contain the promise or agreement of the buyer to pay in substantially equal periodic installments the consolidated total of the principal balance thereof and the unpaid time balance or balances owing by the buyer under one or more previous contracts or obligations, together with a credit service charge; if it does so:

(a) The subsequent contract or obligation shall set forth: (1) the amount of and the period between the installment payments or the number and due dates of the installments to be paid by the buyer, (2) the amount of the credit service charge, (3) the time balance, (4) the time sale price, (5) the unpaid balance owing on any previous contract or obligation included in the consolidated total, (6) the credit service charge, if any, on the consolidated balance and (7) the consolidated total indebtedness of the buyer. This information may be inserted in or attached to the subsequent contract or obligation, and the seller's counterpart thereof, after it is signed by the buyer; in such cases the seller shall promptly and in any event within 10 days from the date of the subsequent contract or obligation deliver, mail or cause to be mailed to the buyer at his address shown on the subsequent contract or obligation, a statement of the items so inserted or attached. Until the seller does so the buyer shall have an unconditional right to cancel the subsequent contract or obligation and to receive an immediate refund of all payments made and redelivery of all goods traded in to the seller on account of or in contemplation of the subsequent contract or obligation. Upon the written request of the buyer the seller shall prove the accuracy of the calculations inserted in the subsequent contract or obligation. Unless the subsequent contract or obligation sets forth the information required by clause (1) above at the time it is executed by the buyer, the due date of the last installment thereof shall not be earlier than the due date of the last installment of any prior contract included in the consolidated total.

(b) Subject to the other provisions of Article 5, the credit service charge to be included in such consolidated total may equal but shall not exceed the larger of the amounts determined by applying the credit service charge at the applicable rate or amount specified in that article:

(1) To the total of the principal balance of the subsequent contract or obligation and the principal balance of any previous contract or obligation included in the consolidated total determined by deducting from the then unpaid time balance thereof any then unearned credit service charge in an amount not less than the refund credit for anticipation provided for in Article 6 of this chapter (computed, however, without the allowance of any minimum earned credit service charge), for the period from the date thereof to and including the date when the final installment of such consolidated total is payable; or

(2) To the principal balance of the subsequent contract or obligation for the period from the date thereof to and including the date when the final installment of such consolidated total is payable and, if the due date of the final installment of such consolidated total is later than the due date of the final installment of any previous contract or obligation

included in the consolidated total, on the time balance then unpaid on such previous contract or obligation from the date when the final installment thereof was payable to the date when the final installment of such consolidated total is payable.

1808.2. Where a buyer makes any subsequent purchase of goods under a contract from a seller from whom he had previously purchased goods under one or more contracts and the amounts due under such previous contract or contracts have not been fully paid, such contract, if it otherwise conforms to the requirements of this chapter, may provide that the goods purchased under the previous contract or contracts shall be security for the goods purchased under the subsequent contract but only until such time as (a) the purchase price under the previous contract or contracts is fully paid, or (b) 20 percent of the time sale price of the goods purchased under the subsequent contract has been paid, whichever event first occurs.

1808.3. When such subsequent purchase is made, the entire amount of all payments made previous thereto shall be deemed to have been applied toward the payment of the previous purchase or purchases. Each payment thereafter received shall be deemed to be allocated to all of the various purchases in the same proportion or ratio as the original cash sale prices of the various purchases bear to one another; where the amount of each installment payment is increased in connection with the subsequent purchase, the subsequent payments (at the seller's election) may be deemed to be allocated as follows: an amount equal to the original rate, to the previous purchase, and an amount equal to the increase, to the subsequent purchase. However, the amount of any initial or downpayment on the subsequent purchase shall be deemed to be allocated in its entirety to such purchase. The provisions of this section and of Section 1808.2 shall not apply to cases involving equipment, parts or other merchandise attached or affixed to goods previously purchased or repairs or services rendered by the seller in connection therewith at the buyer's request.

Article 9. Terms of Purchase by Financing Agency

1809.1. Notwithstanding any contrary provision of law a financing agency may purchase a retail installment contract, obligation or credit agreement from a seller on such terms and conditions and for such price as may be mutually agreed upon. No filing of the assignment, no notice to the buyer of the assignment, and no requirement that the seller be deprived of dominion over payments upon the contract, obligation or credit agreement or over the goods if repossessed by the seller, shall be necessary to the validity of a written assignment of a contract, obligation or credit agreement as against creditors, subsequent purchasers, pledgees, mortgagees or encumbrancers of the seller.

Article 10. Retail Installment Credit Agreements

1810.1. A retail installment credit agreement shall be dated and in writing and the printed portion thereof shall be in at least eight point type. No retail installment credit agreement shall be signed by the buyer when it contains blank spaces to be filled in after it has been signed by the buyer. The seller, before he shall be able to avail himself

of the rates authorized by Section 1810.3, shall deliver to the buyer a copy of the credit agreement executed by the seller.

1810.2. Every retail installment credit agreement shall contain:

(a) The entire agreement of the buyer with respect to the subject matter of the credit agreement.

(b) The names of the seller and of the buyer, the place of business of the seller and the residence or place of business of the buyer as specified by the buyer.

(c) Both at the top thereof and directly above the space reserved for the signature of the buyer, the words RETAIL INSTALLMENT CREDIT AGREEMENT in at least ten point bold type.

(d) A provision in at least eight point bold type to the effect that the buyer may at any time pay his total indebtedness.

(e) A notice in at least eight point bold type reading as follows: NOTICE TO THE BUYER: 1. Do not sign this credit agreement before you read it or if it contains any blank space. 2. You are entitled to a completely filled in copy of this credit agreement.

1810.3. A seller may, in a retail installment credit agreement, contract for and, if so contracted for, the seller or holder thereof may charge, receive and collect the service charge authorized by this chapter. The service charge shall not exceed the following rates computed on the outstanding indebtedness from month to month:

(a) On so much of the outstanding indebtedness as does not exceed one thousand dollars ($1,000), one and one-half percent per month.

(b) If the outstanding indebtedness is more than one thousand dollars ($1,000), one percent per month on the excess over one thousand dollars ($1,000) of the outstanding indebtedness.

(c) If the service charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(d) If the credit agreement so provides, the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

1810.4. The seller or holder under a retail installment credit agreement shall promptly provide the buyer under the agreement with a statement as of the end of each monthly period (which need not be a calendar month) setting forth the following:

(a) The balance due to the seller or holder from the buyer at the beginning of the monthly period.

(b) The dollar amount of each purchase (including all the items covered by any sales slip or memorandum) by the buyer during the monthly period and, unless previously furnished by the seller to the buyer, a description, the cash price and the date of each item purchased.

(c) The payments made by the buyer to the seller or holder and any other credits to the buyer during the monthly period.

(d) The amount of the service charge.

(e) A legend to the effect that the buyer may at any time pay his total indebtedness.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

1810.5. The service charge shall include all charges incident to investigating and making the retail installment credit agreement and for the extension of credit thereunder. No fee, expense, delinquency, collection or other charge whatsoever shall be taken, received, reserved or contracted for by the seller under or holder of a retail installment credit agreement except as provided in this section and except that the credit agreement may provide for the payment of attorney's fees and costs in an amount not to exceed 20 percent of the amount due and payable under the credit agreement if it is referred to an attorney who is not a salaried employee of the seller or holder for collection.

1810.6. If the cost of any insurance is to be separately charged to the buyer, the retail installment credit agreement shall state whether the insurance is to be procured by the buyer or the seller or holder. If the insurance is to be procured by the seller or holder, the seller or holder shall comply with the provisions of Section 1806.5.

1810.7. No retail installment credit agreement shall require or entail the execution of any note or series of notes by the buyer which when separately negotiated will cut off as to third parties any right of action or defense which the buyer may have against the seller.

1810.8. The provisions of Sections 1806.1 and 1806.4 shall be applicable to retail installment credit agreements.

1810.9. The service charge allowed in Section 1810.3 shall be allowed to a seller or holder under this article only:

(a) If the seller enters into an agreement subject to the provisions of this chapter with any buyer on or after October 1, 1959; or

(b) In the case of any buyer who had entered into an agreement with a seller prior to October 1, 1959, if the seller or holder delivers or mails to the buyer a copy of a retail installment credit agreement in conformity with this article duly executed on behalf of the seller and the seller or holder thereafter complies with all the other provisions of this article.

Nothing in this subdivision contained shall be construed to affect the validity or invalidity of any agreement or alleged agreement made prior to October 1, 1959.

Article 11. Attachment

1811.1. Notwithstanding any other provision of law, the salary or wages of a defendant are exempt from attachment for any claim arising out of a contract, obligation or agreement subject to the provisions of this chapter.

Article 12. Repossession and Resale

1812.1. Not more than 40 nor less than 20 days prior to the retaking, the holder of the retail installment contract, if he so desires, may serve upon the buyer personally or by registered mail a notice of intention to retake on account of the buyer's default. The notice shall state the default and the period at the end of which the goods will be retaken, and shall briefly and clearly state what the buyer's rights under this article will be in case they are retaken. If the notice is so served and

the buyer does not perform the obligations in which he has made default before the day set for retaking, the holder of the retail installment contract may retake the goods and hold them subject to the provisions of Sections 1812.3 and 1812.4 regarding resale, but without the right of redemption. Acceptance of partial payment subsequent to service of notice hereunder, and prior to repossession shall not constitute a waiver of default or of the holder's right to repossess pursuant to such notice.

1812.2. If the holder does not give the notice of intention to retake described in Section 1812.1, he shall retain the goods for 10 days after the retaking, during which period the buyer, upon payment or tender of the amount owing under the contract, together with any expenses of taking, keeping and storage, may redeem the goods and become entitled to retake possession of them; provided, however, that the holder shall not be entitled to the expense of taking, keeping and storage, unless, at least five days before the taking, the holder has mailed to the last-known address of the buyer as shown by the holder's records, a notice stating the buyer's default. Upon written demand delivered personally or by registered mail by the buyer, the holder shall furnish to the buyer a written statement of the sum due under the contract and the expense of taking, keeping, and storage. For failure to furnish such statement within a reasonable time after demand, the holder shall forfeit to the buyer $10 and also be liable to him for all damages suffered because of such failure. If the goods are perishable so that retention for 10 days as herein prescribed would result in their destruction or substantial injury, the provisions of this section shall not apply, and the holder may resell the goods immediately upon their retaking.

1812.3. If the holder retakes the goods pursuant to Section 1812.1 or if the buyer fails to exercise his right of redemption pursuant to Section 1812.1, the holder may retain the goods or at his election resell the goods at public or private sale. If the holder does not resell the goods within a reasonable time after retaking, he shall be deemed to have elected to retain the goods and release the buyer from any further obligations under the contract.

1812.4. The proceeds of a resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of any expenses of retaking, keeping, and storing the goods, including reasonable attorney's fees, to which the holder may be entitled, (3) to the satisfaction of the balance due under the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

1812.5. If the proceeds of the resale are not sufficient to defray the the expenses thereof, and also the expenses of retaking, keeping and storing the goods to which the holder may be entitled and the balance due upon the purchase price, the holder may recover the deficiency from the buyer, or from anyone who has succeeded to the obligations of the buyer. The buyer may have the reasonableness of the expense of retaking, keeping and storing the goods and the reasonable value of the goods at the time of resale determined in any action or proceeding brought by the holder to recover the deficiency, the resale price being prima facie but not conclusive evidence of such reasonable value. The reasonable value as determined, or the resale price, whichever shall be higher, shall be credited to the buyer on account of his indebtedness.

If the buyer has paid an amount equal to 80 percent or more of the total time sale price at the time of his default under the contract, and if the buyer, at the request of the holder and without legal proceedings, surrenders the goods to the holder in ordinary condition and free of malicious damage, the holder must, within a period of five days from the date of the receipt of the goods at his place of business, elect either (a) to retain the goods and release the buyer from further obligation under the contract, or (b) to return the goods to the buyer at the holder's expense and be limited to an action to recover the balance of the indebtedness.

1812.6. The provisions of this article shall be in lieu of any and all other legal or equitable proceedings otherwise available for the recovery, repossession and resale of goods sold under any contract, obligation or agreement which is subject to the provisions of this chapter.

Article 13. Penalties

1813.1. Any person who shall wilfully violate any provision of this chapter shall be guilty of a misdemeanor.

1813.2. In case of failure by any person to comply with the provisions of this chapter, such person or any person who acquires a contract, obligation or credit agreement with knowledge of such noncompliance is barred from recovery of any credit service charge or service charge or of any delinquency, collection, extension, deferral or refinance charge imposed in connection with such contract, obligation or agreement and the buyer shall have the right to recover from such person an amount equal to any of such charges paid by the buyer.

1813.3. Notwithstanding the provisions of this article, any failure to comply with any provision of this chapter may be corrected within 10 days after the holder is notified thereof in writing by the buyer and, if so corrected, neither the seller nor the holder shall be subject to any penalty under this article.

1813.4. Section 1813.3 shall not apply to any person who wilfully violates any provision of this chapter in connection with the imposition, computation or disclosures of or relating to a credit service charge on a consolidated total of two or more contracts or obligations under the provisions of Article 8 of this chapter, and the buyer may recover from such person an amount equal to the credit service charges and any delinquency, collection, extension, deferral or refinance charges imposed, contracted for or received on all contracts and obligations included in the consolidated total and the seller shall be barred from the recovery of any such charges.

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L-2234 3-58 1M *printed in* CALIFORNIA STATE PRINTING OFFICE

ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959

VOLUME 15 NUMBER 20

INTERIM REPORT OF THE

ASSEMBLY INTERIM SUBCOMMITTEE ON GENERAL INSURANCE

of the

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

on

ALL INSURANCE MATTERS EXCEPTING SOCIAL INSURANCE SUBJECTS

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LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE
ASSEMBLY INTERIM SUBCOMMITTEE ON GENERAL INSURANCE

March 24, 1958

Hon. L. H. Lincoln
Speaker of the Assembly
Room 3614, State Capitol
Sacramento, California

DEAR MR. LINCOLN: Enclosed is a progress report covering the work of the Assembly Interim Subcommittee on General Insurance to date.

Respectfully submitted,

ALAN G. PATTEE, *Chairman*
JACK A. BEAVER
DONALD D. DOYLE
ERNEST R. GEDDES
H. W. KELLY
JOHN A. O'CONNELL
CHARLES H. WILSON

INTRODUCTION

At its organization meeting on September 17, 1957, the members of the Assembly Interim Committee on Finance and Insurance authorized the creation of the Interim Subcommittee on General Insurance, with Assemblyman Alan G. Pattee as chairman, to study all insurance matters other than those assigned to a companion Interim Subcommittee on Social Insurance.

Two meetings were held by our Interim Subcommittee on General Insurance, one in Los Angeles on December 11, 1957, and another in Monterey on January 30, 1958.

The meeting in Los Angeles developed discussion on the subject of alleged discrimination against minority groups in the placement of automobile insurance. The meeting also resulted in discussion of Senate Bill No. 2637 (Miller) which would prohibit any public utility having the power of eminent domain from requiring, as a condition precedent to the award of a contract by it, that the contractor agree that the utility shall have the right to place the insurance covering the contractor's insurable interests in connection with the contract work, with insurers of the utility's choice and through insurance agents or brokers of the utility's choice. At the same meeting, recodification of the State's insurance statutes underwent preliminary study.

The meeting at Monterey was devoted entirely to the advisability of recodification of the State's Insurance Code.

These various subjects are treated briefly in some additional detail in the following pages of this interim report.

Inasmuch as the subcommittee proposes to delve further into each of them at additional hearings, nothing definitive in the way of conclusions has been reached that might lead, at this time, to recommendations for broadened legislative action.

DISCRIMINATION IN THE PLACEMENT OF AUTOMOBILE INSURANCE

Our subcommittee's study of this subject revolved around three moot points:

1. Is discrimination against minority groups being practiced by insurance companies in the placement of automobile insurance?

2. Is existing law covering the subject broad enough to insure compliance and permit effective enforcement?

3. Is the California Automobile Assigned Risk Plan being employed as an "escape hatch" to force members of minority groups to apply for motor vehicle insurance through that agency rather than through normal and more socially acceptable channels?

Witnesses who declared that discrimination is being practiced agreed that conditions have improved steadily over the years but maintained that to them, a pattern of discrimination still exists to some degree and that it should be eliminated entirely.

They also agreed that the alleged discrimination is of such a delicate and indefinite nature that proof of its existence is difficult to establish.

They further maintained that, where discrimination does exist, it often is being hidden by recourse to use of the California Automobile Risk Plan as a "back door" device to provide automobile insurance coverage for members of minority groups, and that the practice is humiliating to individuals who have good records as citizens, as operators of motor vehicles, and as sound financial risks.

Testimony of some witnesses also developed that discrimination is not being practiced in other types of insurance coverage—only in the casualty insurance business, particularly in automobile coverage.

The contention of witnesses declaring that discrimination exists was that automobile insurance coverage should be rated on the basis of an applicant's history as an operator of a motor vehicle and financial responsibility, and not on the basis of age, occupation, area of residence, or membership in any particular race.

One member of our subcommittee pointed out, during the testimony, that the Legislature recently adopted a policy outlawing discrimination in the placement of motor vehicle liability policies. The reference was to Sections 11628 and 11629 in the Insurance Code, adopted in 1955, which provide that, "no admitted insurer licensed to insure motor vehicle liability policies, defined in Section 4158 of the Code, shall fail or refuse to accept an application for such insurance, to issue such insurance to an applicant therefor, or issue such insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race or color; nor shall race or color itself constitute a condition or risk for which a higher rate, premiums, or charge may be required of the insured for such insurance."

During an exchange of comments on the subject between the Assembly Subcommittee members and witnesses, the conclusion was suggested that perhaps the recently enacted statutes are not entirely accomplishing the purposes for which the Legislature adopted them.

A representative of the California Automobile Assigned Risk Plan appeared before our subcommittee to refute the contention that the assigned risk plan is being employed as a loophole by insurance companies in declining to accept automobile insurance coverage applications from members of minority groups.

In his testimony, this witness stated that the combined loss ratio for property damage and bodily injuries during the last annual accounting was over 90 percent and submitted that no insurance coverage program can be financially successful if the loss ration exceeds 65 percent.

He brought out the points that 91 percent of California's approximately 7,000,000 motor vehicles are insured, a figure which closely approaches the peak of coverage under normal circumstances, and that the gap between that figure and the ultimate coverage of 100 percent is slowly being closed by competitive efforts of private enterprise, thus obviating any necessity for compulsory insurance legislation.

This witness said that by far the largest number of motor vehicle operators covered under the assigned risk plan are drivers under 25 years of age. Over-aged drivers, he asserted, represented another large group who can obtain coverage only under the plan. He stated that

individuals in the armed services are notoriously bad risks. Certificated drivers — those who must prove financial responsibility — because of extraordinarily bad driving records, constitute another large group of motor vehicle operators sheltered by the assigned risk plan, he said.

He revealed that 13 percent of the assignments to the assigned risk plan come within the "miscellaneous" category, which covers occupational bad risks, over-age vehicles in faulty mechanical condition, and various types of exclusions which are unpopular with underwriters for numerous commercial reasons.

This "miscellaneous" category, he implied, would be the area in which any applicants who might be victims of discrimination normally could be "hidden." But he added that, to the best of his knowledge, not one of the applicants in the "miscellaneous" category was placed there because of race or color.

The representative of the assigned risk plan insisted that insurance companies are not interested in practicing discrimination by direct or indirect means.

PUBLIC UTILITIES AND THEIR INSURANCE PLACEMENT PRACTICES

Senate Bill No. 2637 (Miller), as amended on April 26, 1957, would have added Section 777 to the Insurance Code, to restrict the power of a public utility to require persons with whom it dealt to place insurance with insurers, agents, or brokers selected or designated by the utility. The bill would have made it unlawful for any public utility possessing the right of eminent domain to require, directly or indirectly any person doing business with the utility to place insurance covering the person's interest with only such insurers as were selected or designated by the utility or to negotiate such insurance only through the agents or brokers selected or designated by the utility. The bill would also have made it unlawful for the utility to enter into any contract or arrangement which required or had the effect of requiring the person to so place or negotiate insurance. And finally, it would have made it unlawful for such a utility to enter into a contract or business arrangement with another person under which the utility was given the right or option to place with insurers of its choice, or to negotiate with agents or brokers of its choice, insurance covering the interests of the person.

Testimony favoring the enactment of legislation of this type was offered on behalf of an alliance of California insurance producers.

They testified that in the course of their extensive operations, certain public utilities regularly award contracts on the work of constructing various installations. In their contract bid specifications, the utilities quite properly require that the contractor and all subcontractors maintain adequate liability and workmen's compensation insurance, and that the public utility should be included as an additional named insured on the liability insurance policies insofar as work done under the contract is concerned—that all such required insurance must be satisfactory to the public utility under the contract bid specifications.

Likewise, it was conceded that a public utility has a legitimate interest in having its contract work performed at the lowest possible cost to the utility.

But, the testimony also revealed an alleged practice, under specifications, that if the public utility elects to handle the placement of the contractor's and the subcontractor's insurance covering the contract work, the utility pays the premium and is entitled to all return premiums, refunds and dividends. But, the same testimony indicated, the otherwise lump sum contract price is reduced by deducting from the progress and final payments to the contractor and the subcontractor the amounts which the latter would have paid as insurance premiums, in respect to the contract work, under the existing insurance program if the public utility had not elected to place and to pay for the insurance covering the contract work.

In addition, according to testimony favoring this type of legislation, contractors and subcontractors are further damaged by another half dozen or so adverse forms of loss factors, when placement of their insurance is removed from their control by the public utilities for whom they perform contract work. That practice, proponent testimony stated, destroys the primary right of a businessman under the American system of free and private enterprise to administer his own business affairs. Carried to its ultimate conclusion, proponents declared that practice could next dictate from which dealer he could buy or rent equipment, from what landlord he could rent his place of business, or the color of paint he could employ on the trucks or other equipment used on the job.

Countering those assertions, opponents of the proposed legislation declared that the practice of the public utilities in reserving the right to place insurance in the manner that they deem most advisable is beneficial not only to the public utility involved in any such contract, but also to the construction contractors to whom the policy applies, as well as to the great bulk of the small insurance brokers in California, and that it results in economies which result in lowered rates to the utility customers, to whom the utility owes sound and economical service allegiance. Furthermore, opponent testimony continued, proponents of the proposed legislation represent only high-cost insurance operators who are unable to meet legitimate competition.

Another point made by opponents to this legislative proposal is that the measure is entirely discriminatory in nature because it is directed solely against public utilities and would deprive them of the same type of insurance programs enjoyed by other segments of private enterprise.

Also, opponents testified, investigation revealed that a public utility oftentimes could secure insurance at phenomenally lower rates than those being paid when insurance coverage was obtained by contractors—sometimes from one-third to one-quarter of the amount paid through contractors. According to testimony, reason dictates that such lowered costs ultimately could be reflected in lesser job costs, and reduced service rates to customers of the public utility.

This testimony also included the information that when a public utility awards a contract, it specifies the insurance coverage required, along with the limits and the exceptions that are to be allowed. The contractor is then requested to provide information on what that type of coverage will cost. Meanwhile, according to testimony, the public

utility ascertains, by independent research, what rates should properly apply for any such job requirements. If the contractor's insurance figures are in line with that outside premium information, he is allowed to place the insurance with a carrier of his own choice. Thus, contractor's own insurance program is not molested. If, however, according to testimony, the public utility determines that the contractor cannot provide the necessary coverage, or provide it at a cost figure competitive with the one that can be obtained by the utility through its own channels, the utility then may utilize the option of placing the insurance through a program which insures adequate protection for the utility, the contractor and the subcontractors.

NOTE

After the hearing, the principal witness favoring Senate Bill No. 2637 communicated with the chairman of the subcommittee, requesting that a portion of the official summary of the proceedings of the 38th annual convention of the Associated General Contractors of America, Inc., held in Washington, D.C., on March 11-14, 1957, be placed in the official summary of the record of the proceedings of this legislative subcommittee. The chairman of the subcommittee acquiesced in the request and the convention statement reads as follows:

"The 38th Annual Convention of the Associated General Contractors of America * * * expresses emphatic disapproval of any contractural requirement or other action which would bring about a departure from the traditional practice of permitting the general contractor to secure surety bonds or insurance from the reputable companies of his choosing. Depriving the general contractor of this traditional responsibility is contrary to the best interest of the owner."

RECODIFICATION OF THE STATE'S INSURANCE CODE
ASSEMBLY BILL NO. 1402 (WILSON)

The present Insurance Code of the State of California was codified 23 years ago by the Statutes of 1935, Chapter 145. This code has been subsequently amended in the regular sessions of the Legislature in 1935, 1937, 1939, 1941, 1945, 1947, 1949, 1951, 1953, 1955, and 1957, the Fifth Extraordinary Session of 1940, the First Extraordinary Session of 1946, and the First Extraordinary Session of 1950.

Our Subcommittee on General Insurance is now working on the recodification of Chapter 5 of Part 2 of Division 1 of that code which appertains to the licensing of production agencies and the disciplining of those licensees.

Since the original codification of the Insurance Code there have been approximately 258 section changes in this chapter by amendment, repeal and addition. These numerous changes have had two unfortunate results.

This chapter has separate articles with respect to the licensing procedure for those producers writing life and disability insurance and those producers writing fire, casualty and other forms of general insurance. In the process of the growth of these separate articles, many unintentional inconsistencies have developed.

In addition, that growth has resulted in a haphazard arrangement of sections whereby the qualifications and procedures for filing for a license are not in any consecutive, logical order. As a result of the hodge-podge arrangement, to interpret the application of the statutes to any individual case, a complete analysis of the entire chapter is necessary.

Our legislative subcommittee has received the support of the insurance industry, the producers' associations and the Insurance Commissioner in recodifying the chapter for the purpose of providing an orderly arrangement of the sections and of eliminating the unintentional conflicts and inconsistencies among the licensing requirements. This support is based upon their unanimous feeling that this work making the insurance licensing laws uniform and understandable is a matter of extreme importance to the insurance industry and to the general public.

After a preliminary meeting in Los Angeles, a meeting was held in Monterey which was attended by representatives from the insurance industry as well as representatives from the Insurance Commissioner's office. At that time, the present proposed bill was found to be generally acceptable. However, many constructive suggestions were submitted and all representatives present enthusiastically agreed to act as an advisory subcommittee to review these suggestions with the Department of Insurance representatives.

This advisory subcommittee is presently working on these different problems. The first is to incorporate the 1957 legislation into the committee's proposed bill. The second is to eliminate any suggestions that result in any substantive change in the existing law, so that such changes may be later submitted for legislative consideration independently of the recodification bill.

Considerable progress has been accomplished. A proposed incorporation of the 1957 legislation has been drafted, and a series of additional advisory subcommittee meetings to discuss editorial changes have been scheduled. A revised draft of the entire bill will be completed within a few weeks. This revised draft will be circulated widely in the industry, so that a large representation may be expected at our forthcoming meetings when the revised draft will be analyzed by the industry members, and by the members of the Assembly Interim Subcommittee on General Insurance (of the Assembly Interim Committee on Finance and Insurance).

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printed in CALIFORNIA STATE PRINTING OFFICE

L-2245 4-58 500

ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959

VOLUME 15 NUMBER 21

Interim Report of the

ASSEMBLY INTERIM SUBCOMMITTEE ON SOCIAL INSURANCE

of the

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

on

ALL SOCIAL INSURANCE SUBJECTS

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

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Chief Clerk of the Assembly

LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
FINANCE AND INSURANCE
SUBCOMMITTEE ON SOCIAL INSURANCE
April 2, 1958

Hon. L. H. Lincoln
Speaker of the Assembly
Sacramento, California

DEAR MR. LINCOLN: Enclosed is a progress report covering the work of the Assembly Interim Subcommittee on Social Insurance to date.

Respectfully submitted,

ROBERT W. CROWN, Chairman
AUGUSTUS F. HAWKINS
WILLIAM A. MUNNELL
HAROLD K. LEVERING
JOHN A. O'CONNELL
RICHARD H. MCCOLLISTER
HOWARD J. THELIN

INTRODUCTION

The Assembly Interim Subcommittee on Social Insurance held two meetings following adjournment of the 1957 Regular Session of the Legislature. The first meeting was held in Alameda, on January 7, 1958, during which time Assembly Bill No. 2642 (Chapel) and Assembly Bill No. 3094 (Chapel, Kilpatrick, Munnell, Wilson, and Ernest R. Geddes) were studied.

The second meeting was held on January 17th, in Sacramento, jointly with the Assembly Interim Committee on Civil Service and State Personnel (Samuel R. Geddes, Chairman), during which discussions were held on Assembly Bill No. 1268 (Nielsen) and Assembly Bill No. 3041 (Henderson, Nielsen, MacBride, Samuel R. Geddes, and Wilson).

Explanations of the bills, excerpts from the testimony given on them during the hearings, and general information adduced through witnesses or committee research efforts, are reported briefly in the following pages of this interim report to the Assembly.

Because the subject matter of the various bills were not completely explored, it will be necessary to conduct additional investigation and hearings before definitive recommendations can be made to the Legislature.

ASSEMBLY BILL NO. 2642

This bill, in its final amended form, classifies an "industrial catering driver" as the operator of a motor vehicle from which nonalcoholic beverages, foods and sundries are sold to employees of industrial plants and other establishments at meal, rest and other periods. It excludes from employment covered by unemployment insurance laws contract services performed for fixed periods, under the terms of which hours worked, prices charged and merchandise sold may be chosen by industrial catering drivers who agree to do their work for profits made on merchandise sold instead of working for a fixed salary.

While certain services have been excluded from employment covered by unemployment insurance laws since such laws were first enacted in this State, the Legislature apparently has never before considered excluding the specific services delineated in Assembly Bill No. 2642. The Unemployment Insurance Law does provide for some specific exclusions ranging from agricultural labor to services performed by a free-lance jockey or exercise boy who is regularly licensed by the California Horse Racing Board.

Accurate figures on the number of persons who would be affected by legislation such as Assembly Bill No. 2642 are not available but it is estimated that approximately 3,000 lunch truck drivers in California might be affected.

Testimony was offered that the bill was introduced at the request of the Industrial Catering Association of California, presumably for the purpose of resolving a problem existing for several years within the industry centering around the relationship existing between the owners or lessors of catering trucks and those who operate their equipment. Over the years the question has been asked of the Department of Employment whether drivers of the trucks involved are independent contractors or employees.

In addition, the conflict has been considered on two occasions by the California Unemployment Insurance Appeals Board. In the first instance, the board ruled that route drivers of lunch trucks were employees of the route owner and not independent contractors. In the second case, the board, in considering a similar but not identical case, reversed its previous ruling and held the drivers to be independent contractors. The distinction between the two decisions is that employees are covered by the Unemployment Insurance Code but that independent contractors are not.

Meanwhile, the board had under consideration two more cases on the same subject.

Proponents of Assembly Bill No. 2642 held that the number of standards specified in the bill to determine the question of whether a truck driver is an independent contractor or an employee are ample enough to determine the right of control.

Questions asked by members of the subcommittee developed two essential points over which proponents and opponents of this type of legislation proved to be in conflict:

1. Does Assembly Bill No. 2642, in attempting to simplify the right of control element, which is a determining factor in a case heard by the board, meet the usual standards generally required in testing the merits of any such case?

2. Is the California Unemployment Appeals Board, in its determination of cases, providing interested parties with satisfactory service, and are the conflicts the board is called upon to resolve so many in number that additional legislation is necessary to establish new standards of control to determine whether a driver is an independent contractor or an employee, and so that a complicated and involved problem might be simplified and clarified for the benefit of all interested parties?

With respect to the first point, an exchange of questions revealed that Assembly Bill No. 2642 would reduce the usual score or more of test items, now employed in reaching a decision, to about four test items. Some of the test items, in cases of this nature, now involve such factors as the right to hire and fire, fixed or irregular working hours, profits being the form of compensation instead of salary or wages, ownership of equipment, prices charged, route rights, maintenance of equipment, selection of merchandise, the element of retail selling being part of the duties involved, and so forth—factors peculiar to the catering industry in an owner-worker relationship. Added to them are other ordinary test items applied in all determinations made by the department or the appeals board in cases considered by them. Proponents and opponents of the measure came into direct conflict on this question of reducing the number of test items necessary to make a determination and the hearing ended without progress having been made in resolving the disagreement in the two viewpoints.

With respect to the second point, committee members expressed the opinion that with two cases having been decided by the appeals board to date, and with two more on the docket for determination, the California Unemployment Appeals Board was not being burdened with an overload of cases generated by conflicts in the owner-worker relationship in the catering industry.

Opponents of Assembly Bill No. 2642 declared that the bill, in its present form, would exclude a large number of workers from unemployment benefits. They declared that the State's Unemployment Insurance Code contemplates the coverage of all workers, wherever and whenever an employer-employee relationship exists, but that it does not apply to independent contractors.

They pointed out that in one decision, the California State Supreme Court held that, "the basis for the requirement for contributions is that of employer and employee" and that, "a principal for whom services are rendered by an independent contractor" need not pay the tax on such services. Also that, "in determining whether one who performs services for another is an employee or an independent contractor, the most important factor is the right to control the manner and means of accomplishing the result desired. If the employer has the authority to exercise complete control, whether or not the right is exercised * * * an employer-employee relationship exists."

Assembly Bill No. 2642, opponents of the measure stated, would be contrary to existing law as fixed by the decision quoted, because the bill would enlarge upon the existing definition of that term. And, further, they testified, whereas the principal test now is the right to control the manner and means of accomplishing the desired result, Assembly Bill No. 2642 as proposed would exclude many workers now covered because the employer controls the "manner and means of performance."

Furthermore, the measure's opponents declared, while the bill seeks to exclude, "the industrial catering driver," it does not define that class of truck drivers, with the possible consequence that the bill might exclude bakery drivers, milk drivers, beer truck drivers, meat and provision truck drivers, and many other types of workers engaged in the operation of motor vehicles in connection with the manner in which they earn their livelihoods.

The bill's opponents also developed the point that, if the sponsors of the bill believe that the drivers that they seek to exclude are truly independent contractors, then such drivers are not presently covered by the Unemployment Insurance Code, and so legislation of the type sought by enactment of Assembly Bill No. 2642 into law is not necessary. And, they added, whereas the claim had been made that a bill such as Assembly Bill No. 2642 is needed to obviate adjudications as to whether an employer-employee relationship exists, it is apparent that each new case must be tested and decided in the light of the particular facts involved, and so that form of determination would continue to exist even if Assembly Bill No. 2642 were enacted into law, thus once again rendering a measure of its nature superfluous and unnecessary.

One point that members of the subcommittee endeavored to clarify was whether, if legislation like Assembly Bill No. 2642 should be enacted, the Department of Employment would be relieved of its present task of making determinations in owner-employee relationships referred to the department for settlement.

There was some testimony given to the effect that even under the provisions of Assembly Bill No. 2642, the task of determining if in a specific case the individual was an employee or an independent contractor would still rest with the department. Some of the witnesses, therefore, expressed the opinion that the proposed bill would not remedy the present problems of determination.

ASSEMBLY BILL NO. 3094

Simply stated, this bill would provide eligibility for workmen's compensation for any worker who is injured or diseased as a result of employment and as a result of exposure to radiation from radium, radioactive substances, or X-rays. The development of atomic energy as a source of industrial activity prompted this proposal to provide specific identity for injuries and diseases which heretofore have not been common for compensation purposes.

The Labor Code seemingly does not include any law relating to the specific subject covered by Assembly Bill No. 3094, although the term "injury" was initially defined, for the purposes of Workmen's Com-

pensation Law, by Chapter 586, Statutes 1917. Subdivision 4 of Section 3 of that act reads: "The term 'injury' as used in this act, shall include any injury or disease arising out of the employment. In case of aggravation of any disease existing prior to such injury, compensation shall be allowed only for such proportion of the disability due to the aggravation of such prior disease as may reasonably be attributed to the injury."

During the hearing, representatives of trade associations and chambers of commerce appeared in opposition to Assembly Bill No. 3094, the basis for their opposition being predicated upon the premise that legislation such as Assembly Bill No. 3094, while meritorious in principle, is unnecessary because California statutes covering compensation for injuries or diseases arising out of employment are ample enough in number and broad enough in scope to cover workers injured or diseased as a result of work performed in our space age industrial and commercial worlds. They pointed out that, since workmen's compensation laws were first enacted in California, a large number of new industries, not then in existence, have since made their appearance on our industrial stage, and that whenever any such new type of industrial injury or disease has made its appearance, and the factual basis for it has been established, it has been considered compensible.

Members of the subcommittee devoted attention to several speculative points that might arise from workmen's compensation claims as a result of injuries or diseases originating in our new space age, such as:

1. Are existing laws broad enough in scope to provide a claimant with the right to apply for compensation after he has left his job and his disease or injury later appears—such as the effects of radiation exposure, which sometimes are not recognized or not diagnosed until years after exposure?

2. Assume, for instance, that during the manufacturing or the testing of nuclear weapons, an accident occurs which results in radiation fallout which, in time, might affect many people in many parts of the world. Would it not be difficult, then, to distinguish between cases of radiation exposure, and injury caused by employment, or those caused by radiation exposure and injury simply because the affected individual or individuals happened to exist at the time but were not actually engaged in the designing, planning, manufacturing or testing of nuclear weapons?

ASSEMBLY BILL NO. 1268 AND ASSEMBLY BILL NO. 3041

Several major questions of state policy are involved in these two bills, such as:

1. Should the State provide disability benefits for state employees, and, if so:
   a. Should a disability program be integrated with a health and welfare program proposed in companion bills?
2. Should the State provide unemployment insurance benefits for state employees, and, if so:
   a. Should the State provide unemployment insurance benefits for permanent employees only? or

b. Should the State also provide unemployment insurance benefits for temporary, seasonal, intermittent and probationary employees?

These bills cover much of the same subject. They would extend unemployment and disability insurance coverage to all state employees except those employed by the Regents of the University of California.

Subcommittee research efforts revealed that, based on the calendar year 1958, if enacted they would cost the State of California approximately $7,000,000 annually during the first three years, and $1,200,000 annually thereafter.

Presently, almost 5,000,000 persons are employed by state, county, and municipal governments and their instrumentalities and, collectively they represent one of the largest groups of civilian labor forces still without unemployment insurance protection.

Of those millions of workers, about 5 percent (219,000) in 19 different states of the Union now enjoy some form of broad, mandatory unemployment insurance coverage. California is not one of these states. On the other hand, these bills propose that California should become the first state of the Union to undertake a program of disability insurance for its employees.

Although it is true that civil service laws or merit systems now provide many such governmental employees with a measure of security in their jobs, and many other benefits, nonetheless, the unemployment experience of state and local governments discloses that there may be need for unemployment insurance coverage for them, and that the same principle holds true for disability insurance protection.

In the give and take of testimony by state officials, statements by representatives of private insurance firms, and questioning by members of the legislative study group, it seemed obvious that the subjects of unemployment insurance and disability insurance benefits for state employees in California require further study.

The point was made that the cost of any such program would become another fringe benefit for state employees and would not be a true insurance program—rather, it would result in a new and added cost of State Government to be borne year-by-year by one form or another of state financial assistance.

This entire subject is still in the preliminary stages of discussion and consideration. That the program possesses genuine merit, no one doubts. But, the questions that arise are—which state employees should be covered? How much would the program cost? And who would pay the costs—the employees who would benefit from it, or the State of California, or both?

Unquestionably, much more research, deliberation and time are required before this question, of such import to every state employee, and to the State itself, is resolved with fairness to all concerned.

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L-2454 4-58 500 *printed in* CALIFORNIA STATE PRINTING OFFICE